EMPLOYEE RELATIONS

SYSTEMWIDE

Report Number 03-13
June 30, 2004

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ABBREVIATIONS

AIDS Acquired Immune Deficiency Syndrome
APC Academic Professionals of California
BOT Board of Trustees
CFA California Faculty Association
CO Chancellor’s Office
CSEA California State Employees’ Association
CSU California State University
EO Executive Order
EOIR Equal Opportunity and Internal Relations
ER Employee Relations
FTE Full-Time Employment
FY Fiscal Year
GC Government Code
HEERA Higher Education Employee-Employer Relations Act
HR Human Resources
HRSG Human Resources Service Group
MPP Management Personnel Plan
OED Office of Equity and Diversity
OGC Office of General Counsel
SETC State Employees Trades Council
SPD Systemwide Professional Development
SUPA State University Police Association
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 (ER) be reviewed.

We visited nine campuses from March 10, 2003, through November 25, 2003, and audited the procedures in effect at that time. Campus specific findings and recommendations have been discussed and reported individually.

In our opinion, except for the maintenance of current sexual harassment policies and the administration of employee performance evaluations, the ER function at the nine campuses visited provided reasonable assurance that the California State University (CSU) was in compliance with applicable regulations and CSU policy. We also noted that via the Human Resources department and the Office of General Counsel, the chancellor’s office provided appropriate oversight and support to the campuses for ER activities. However, our review disclosed certain areas that needed improvement. These areas included the promulgation and maintenance of systemwide ER policies and procedures that align with and support the current CSU structure and operating environment and fully consider existing federal and state regulatory requirements, and the monitoring of union leave taken by campus employees. These and other areas in need of improvement are referenced in the executive summary.

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 of the ER function needed improvement. Systemwide policies and procedures for various areas, such as drug-free workplace and employee discipline, were incomplete and/or outdated. We also noted that the provision of union leave was not effectively monitored to ensure compliance with related contracts.

COMPLAINTS AND RECONSIDERATION REQUESTS [11]

Systemwide policies and procedures for handling non-discrimination complaints needed updating to ensure clear guidance for performing informal investigations and handling complaints by external investigators or attorneys. We also noted that the systemwide policy for sexual harassment had not been updated since initial publication in May 1981 and did not provide clear guidelines for the campuses in the area of employee complaints, training, and campus communications. In seven of the nine campuses visited, we also noted outdated sexual harassment policies and complaint procedures and a lack of formalized training for faculty and staff employees.
EXECUTIVE SUMMARY

PERFORMANCE MANAGEMENT [14]

Performance evaluation policies could not be located for certain non-represented employees, and performance evaluation requirements for public safety officers were not included in the respective contract or the university police systemwide guidelines. In seven of the nine campuses visited, we also noted varying levels of non-compliance with the collective bargaining agreements and Title 5 provisions regarding performance evaluations. Specifically, we could not always locate a six-month and/or annual performance evaluation for Management Personnel Plan employees, the most recent annual evaluation for confidential employees, and a 3-, 6-, 11-month and/or the most recent annual performance evaluation for represented probationary and permanent employees.

WHISTLEBLOWER DISCLOSURES [16]

Systemwide policies and procedures for handling whistleblower disclosures were ambiguous and incomplete. Specifically, the policy did not provide clear guidance to the campuses on reporting whistleblower disclosures to the chancellor’s office or handling disclosures that were forwarded from the California State Auditor. In addition, the policy directed the campus presidents to establish similar procedures as those included in the executive order; however, another policy section prescribed different expectations in this area. Due to this situation, four of nine campuses visited had not developed procedures for handling employee whistleblower disclosures.

CAMPUS MANAGER TRAINING [17]

ER training for department managers needed improvement at all eight campuses where manager interviews were conducted. Interviews with five campus managers at each campus disclosed that, in varying degrees, campus managers were not always aware of who to contact and/or how to effectively handle employee sexual harassment and non-discrimination complaints, whistleblower disclosures, and/or allegations of retaliation, and/or campus reconsideration procedures and progressive disciplinary guidelines. We also noted that the campus managers had not always received formal training on sexual harassment and handling informal and formal discrimination complaints, preparing performance evaluations, and/or protecting confidential employee information.
INTRODUCTION

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 recordkeeping to include administering labor contracts, providing employee assistance, and ensuring civil rights and other regulatory compliance. These activities embody the employee relations (ER) 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 ER 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 percent 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 ER support by the campus and designated chancellor’s office departments, and reported as follows:

<table>
<thead>
<tr>
<th>Class</th>
<th>Employee Type</th>
<th>2002</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Represented</td>
<td>Staff</td>
<td>16,997</td>
<td>43.1%</td>
</tr>
<tr>
<td></td>
<td>Faculty</td>
<td>17,422</td>
<td>44.2%</td>
</tr>
<tr>
<td>Non-Represented</td>
<td>MPP</td>
<td>3,142</td>
<td>8.0%</td>
</tr>
<tr>
<td></td>
<td>Staff - Confidential</td>
<td>315</td>
<td>0.7%</td>
</tr>
<tr>
<td></td>
<td>Staff - Excluded</td>
<td>1,564</td>
<td>4.0%</td>
</tr>
<tr>
<td><strong>Total FTE</strong></td>
<td></td>
<td>39,440</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

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:
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<table>
<thead>
<tr>
<th>Union</th>
<th>2002 FTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>California Federation of the Union of Academic Physicians and Dentists</td>
<td>71</td>
</tr>
<tr>
<td>Academic Professionals of California (APC)</td>
<td>1,997</td>
</tr>
<tr>
<td>State Employees Trades Council (SETC)</td>
<td>973</td>
</tr>
<tr>
<td>State University Police Association (SUPA)</td>
<td>288</td>
</tr>
<tr>
<td>International Union of Operating Engineers</td>
<td>13</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>3,342</strong></td>
</tr>
</tbody>
</table>

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 ER 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 ER 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
INTRODUCTION

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 ER 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 2002/03. Throughout this report, we will refer to ER as the primary audit subject. We focused primarily upon internal, administrative, compliance, and operational controls over the management of the ER 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 ER 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 ER information.

During the course of the audit, we visited nine campuses: Fresno, Fullerton, Hayward, Long Beach, Northridge, San Diego, San José, San Marcos, and Stanislaus. We interviewed campus personnel and audited procedures in effect at that time.
OBSERVATIONS, RECOMMENDATIONS, AND MANAGEMENT RESPONSES

EMPLOYEE RELATIONS ADMINISTRATION

SYSTEMWIDE POLICIES

Systemwide policies and procedures for the employee relations (ER) area were incomplete and/or outdated.

Since the early-1980’s, the chancellor’s office (CO) prescribed various policies for the ER area that were based on Board of Trustee (BOT) resolutions and/or existing federal and state requirements in the employment area. The following table indicates various ER policies that were reviewed as part of the systemwide audit:

<table>
<thead>
<tr>
<th>ER Area</th>
<th>Publication</th>
<th>Date of Most Recent Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquired Immune Deficiency Syndrome (AIDS) Policy and Guidelines</td>
<td>Memorandum</td>
<td>April 29, 1986</td>
</tr>
<tr>
<td>Drug-Free Workplace Requirements</td>
<td>California State University (CSU) Directive — Faculty and Staff Relations 89-18</td>
<td>March 24, 1989</td>
</tr>
<tr>
<td>Smoking</td>
<td>EO No. 599</td>
<td>May 1, 1993</td>
</tr>
</tbody>
</table>

In response to the Disability Support and Accommodations audit, the CO recently revised the non-discrimination and affirmative action policy to include guidelines for providing faculty and staff with Americans with Disabilities Act training. However, further analysis of the other ER policies and observations at the nine campuses visited disclosed that:

- The AIDS Policy and Guidelines were issued in 1986 as a CO memorandum and were not widely known and/or published by the campuses. In addition, we could not locate a CO directive that revised or rescinded the policy since the initial publication date.

- In response to the Drug-Free Workplace Act of 1988, the CO issued a directive that prescribed campus requirements for completing drug-free workplace certifications. However, this directive did not include systemwide policy statements regarding the prohibition of controlled substances in the workplace or certain requirements of the Department of Education’s regulations related to the Drug-Free Schools and Communities Act of 1989.
A review of other policies in the ER area also determined that:

- EO No. 144, *Authorization of State College Presidents to Meet and Confer*, dated February 8, 1972, was outdated and not reflective of the current collective bargaining environment at the CSU.

- EO No. 446, *Reconsideration Procedures for CSU Employees Not Represented by an Exclusive Representative*, dated November 1, 1984, included outdated references to CO departments and BOT reporting requirements.

- EO No. 586, *Delegation of Authority to Impose Discipline*, dated March 1, 1992, was not updated to include new policy criteria noted in an April 10, 1992, memorandum from the Office of the General Counsel (OGC). Via this memorandum entitled *Campus Handling of Disciplinary Proceedings*, campuses, rather than OGC, were delegated the authority to handle employee appeals to the State Personnel Board.

Government Code (GC) §13402 and §13403 state that management is responsible for the establishment and maintenance of a system of internal administrative control, which includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions. Further, a satisfactory system of internal administrative controls shall include, but not be limited to, an established system of practices to be followed in performance of duties and functions.

A lack of current and complete policies and procedures increases the risk of misunderstandings related to the performance of duties and functions, and inconsistencies in complying with state, federal, and BOT policies.

**Recommendation 1**

We recommend that the chancellor’s office:

a. Review, revise, and/or rescind the existing guidelines and memoranda on AIDS and a drug-free workplace.

b. Update EO Nos. 144, 446, and 586 to reflect the current CSU structure and operating environment for collective bargaining activities, handling and reporting reconsideration requests, and imposing employee discipline.

**Management’s Response**

Agreed.

a. Review, revision, or rescission to be completed by January 3, 2005.
b. Update or rescission of each EO to be completed no later than January 3, 2005:

- EO 144: Authorization of State College Presidents to Meet and Confer.
- EO 446: Reconsideration Procedures for CSU Employees Not Represented by an Exclusive Representative.
- EO 586: Delegation of Authority to Impose Discipline.

**UNION LEAVE**

The CO had not implemented effective monitoring controls to ensure compliance with release time provisions in the California State Employees Association (CSEA) contract, and four of the nine campuses visited did not adequately control reimbursable union leave.

On a fiscal year (FY) basis from July 1 through June 30, the CSEA contract provided an annual allotment of 576 days for non-reimbursable union release time. The CSEA contract designated 288 days of this total for union representatives to conduct business at the campus on which they were employed, and the remaining days were allocated for business at any location. Our review of union release time that was provided to all CSU campus representatives in FYs 2001/02 and 2002/03 disclosed that:

- For FY 2002/03, union representatives were provided 636 days of release time, which exceeded the annual allotment by 60 days.
- CSEA did not provide, nor did the chancellor’s office require, quarterly reports of union leave that was taken by campus representatives.

The CSEA, State Employees Trades Council (SETC), and the State University Police Association (SUPA) contracts also provided for reimbursable union leave for union representatives. However, at four of the nine campuses visited, we found exceptions with the handling of this leave as follows:

- At one campus, SETC was not invoiced, nor did the campus always receive an additional 30 percent over straight time for the union leave. Additionally, CSEA was not invoiced for incidental costs, which were not defined in the current contract.
- Unions were not always invoiced and/or the unions did not always remit reimbursements in a timely manner at three campuses. In certain campuses, delays in the campus billings and receipt of reimbursement ranged in excess of 11 and 15 months, respectively.
- Campus procedures for handling union leave reimbursements had not been documented by the applicable human resources department at one campus.

Article 5.11.d. of the CSEA bargaining agreement for July 1, 2002, through June 30, 2003, states that the CSEA and CSU agree that effective July 1, 2002, an annual allotment of 576 days will be
available, as requested by CSEA headquarters, and that the allotment of 576 days will be used on a fiscal year basis from July 1 through June 30 of each year of the agreement. Union representatives shall be allocated 288 days to conduct business at the campus on which they are employed, and 288 days shall be allocated for union representatives to conduct business at any location. CSEA shall provide to the CSU a quarterly report of leave used under this provision.

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. Reimbursement by the union shall be made no later than 30 days after its receipt of the CSU certification of payment of compensation to the employee.

Article 7.14.b. 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. The union shall reimburse the university for the employee’s compensation, plus 30 percent for incidental costs. Reimbursement by the union shall be made no later than 60 days after receipt by the union of an itemized bill from the affected campus for reimbursable release time for authorized employees.

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.

GC §13402 and §13403 state that management is responsible for the establishment and maintenance of a system of internal administrative control, which includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions. Further, a satisfactory system of internal accounting and administrative controls shall include, but is not limited to, a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

The labor relations manager stated that CSEA had not provided union leave information for FY 2002/03, and without such data, the chancellor’s office was unable to perform reconciliation for reimbursement purposes. Campus management cited various reasons for these issues, including a lack of procedures and limited time and resources to invoice the unions.

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

Recommendation 2

We recommend that the chancellor’s office:

a. Implement effective monitoring controls to ensure compliance with CSEA contract provisions addressing non-reimbursable leave and the receipt of union reports.
b. Resolve the issue pertaining to the reimbursement from CSEA for FY 2002/03 release time that exceeded the maximum allotment.

c. Provide guidance to the campuses via a technical letter or other similar communication on the proper administration of union leave requests. Such guidance should include, but not be limited to, the need for the campuses to timely and sufficiently bill the unions for release time, including incidental costs, document departmental procedures, and escalate delinquent receivables information to the appropriate labor relations manager or other chancellor’s office personnel for assistance.

Management’s Response

Agreed.

a. Monitoring system to be implemented no later than January 3, 2005.

b. Issue resolved by mutual agreement as part of 2003/04 memoranda of understanding. To be completed with board ratification in September 2004.


COMPLAINTS AND RECONSIDERATION REQUESTS

EXECUTIVE ORDER NO. 675

Systemwide policies and procedures for handling non-discrimination complaints were unclear and incomplete.

In July 1983, the CO published EO No. 419 as the systemwide grievance procedure for employees who alleged a violation, misapplication, or misinterpretation of the CSU policy on non-discrimination. This policy applied to employees who were ineligible to file a discrimination complaint or grievance under a collective bargaining agreement and was superseded by EO No. 675 in 1998. Our analysis of both EOs and observations during the campus reviews disclosed that:

- EO No. 675 did not include clear guidelines for certain areas, such as:
  - The development and documentation of informal investigation procedures. In a 2002 technical letter, the CO advised the campuses to develop informal investigation procedures; however, EO No. 675 was not updated to include this requirement.
  - Campus referral of employee discrimination complaints to external investigators or attorneys.
  - The time limits set forth in EO No. 675 referred to calendar days for escalating and handling discrimination complaints. This caused confusion at the campuses visited, since other
systemwide policies, such as EO No. 821, *Reporting Procedures for Protected Disclosures of Improper Governmental Activities*, dated May 23, 2002, used working days to define time limitations for processing employee complaints.

GC §13402 and §13403 state that management is responsible for the establishment and maintenance of a system of internal administrative control, which includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions. Further, a satisfactory system of internal administrative controls shall include, but not be limited to, an established system of practices to be followed in performance of duties and functions.


Failure to maintain clear and complete policies perpetuates inconsistencies in interpretation and compliance and procedural inaccuracies in handling employee complaints.

**Recommendation 3**

We recommend that the chancellor’s office update EO No. 675 to include clear guidelines for developing and documenting informal investigation procedures and other necessary information.

**Management’s Response**

Agreed. Updated EO will be issued no later than January 3, 2005.

**EXECUTIVE ORDER NO. 345**

The systemwide sexual harassment policy was outdated, and effective policies, procedures, and/or training programs were not in place at seven of the nine campuses visited.

We noted that:

- EO No. 345 had not been updated since initial publication in May 1981, and did not provide clear guidelines for the campuses in the areas of employee complaints, training, and campus communications. For example, the policy indicated that the campuses were encouraged to educate the campus community, students, and employees regarding sexual harassment; however, guidelines regarding the content and frequency of such training were not included.

- In response to federal and state regulations and EO No. 345, campuses developed sexual harassment policies and procedures for handling employee complaints that included, but were not limited to, clear definitions of sexual harassment and the applicable regulatory statues that prohibited discriminatory practices. However, at seven of the nine campuses visited, we noted that such policies and procedures were either outdated, not reflective of human resources’ or the
office of diversity and equity departments’ practice for investigating and handling complaints, and/or did not incorporate the time frames and complaint resolution required by EO No. 675.

- At six of the above-referenced seven campuses, sexual harassment training had either not been recently provided or formalized.
  
  - Formalized training, including the handling and reporting of employee complaints, had not been recently provided to all faculty and staff at three campuses. At one campus, the last training session was approximately three years ago.
  
  - Three campuses had not developed and documented a sexual harassment training plan to ensure the ongoing training of faculty (including part-time instructors), management, and non-management personnel.

GC §13402 states that management is responsible for the establishment and maintenance of a system of internal administrative control, which includes documenting the system, communicating system requirements to employees, and assuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions.

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

The responsible human resources or equity and diversity directors stated that campus sexual harassment policies and procedures were developed a number of years ago and became obsolete with the implementation of new CSU policies and collective bargaining provisions in this area. The directors also cited various reasons for not providing sexual harassment training that included, but were not limited to, limited financial resources, staff turnover, and the departure of previous human resources directors.

Failure to maintain effective policies, procedures, and training programs for sensitive ER 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 chancellor’s office review and update EO No. 345 to include clear guidelines for the campuses in the areas of employee complaints, training, and communications.

**Management’s Response**

Agreed. Updated EO will be issued no later than January 3, 2005.
Recommendation 5

Prior to, or concurrent with Recommendation No. 4, we recommend that the chancellor’s office remind the campuses of the importance of:

a. Updating and maintaining sexual harassment policies and procedures that reflect the current operating environment, align with CSU policy, and ensure timely processing of employee complaints.

b. Making available ongoing harassment training (including sexual harassment) to faculty (including part-time instructors) and staff.

Management’s Response

Agreed. Reminder included in memo to appropriate campus officials sent August 9, 2004.

PERFORMANCE MANAGEMENT

The CO had not developed performance evaluation policies for certain CSU employees.

Via the collective bargaining process, the CSU prescribed performance evaluation requirements for represented probationary and permanent employees. For non-represented employees, we found that Title 5 prescribed similar requirements for Management Personnel Plan (MPP) employees, which included a six-month performance evaluation after hire and annually thereafter. However, further analysis of these and other resources related to the CSU performance management process disclosed that:

- The CO website for confidential employees directed the campuses to establish performance evaluation procedures consistent with the policies of the BOT and the chancellor. However, we were unable to locate such policies or other guidelines for evaluating these employees.

- Performance evaluation requirements for public safety officers were not included in the SUPA contract or the University Police Systemwide Guidelines.

In seven of the nine campuses visited, we also noted varying levels of non-compliance with the collective bargaining agreements and Title 5 provisions regarding performance evaluations. Specifically, the campuses could not always provide the following:

- A six-month and/or annual performance evaluation for MPP employees.

- The most recent annual evaluation for confidential employees.

- A 3-, 6-, 11-month and/or the most recent annual performance evaluation for represented probationary and permanent employees.
Evidence that the evaluator submitted a draft evaluation for the represented employees’ review, input, and discussion.

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.

Title 5 §43551 states that procedures shall be established for periodic performance appraisals of permanent or probationary employees consonant with the policies of the BOT and the chancellor.

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 18.1.A.1. of the Academic Professionals of California bargaining agreement for July 1, 2000, through June 30, 2003, states that employees shall be evaluated on at least an annual basis.

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.

Campus management cited various reasons for these issues, including the absence of processes to monitor for outstanding performance evaluations, oversights, and a lack of knowledge of statutory requirements for evaluating MPP employees.

Inadequate policies and procedures and control over the performance management process increase 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 chancellor’s office:

a. Define and communicate performance evaluation requirements for confidential employees and public safety officers.

b. Remind the campuses of the need to administer performance evaluations as required via collective bargaining agreements, Title 5, and other CSU policies.
Management’s Response

Agreed.

a. Guidelines for confidential employees to be issued no later than January 3, 2005. We have initiated with SUPA discussion of their potential willingness to adopt evaluation requirements for police officers during contract negotiations.

b. Reminder included in memo sent August 9, 2004.

WHISTLEBLOWER DISCLOSURES

Systemwide policies and procedures for handling whistleblower disclosures were ambiguous and incomplete.

EO No. 821, Reporting Procedures for Protected Disclosure of Improper Governmental Activities and/or Significant Threats to Health or Safety, dated May 23, 2002, prescribed systemwide reporting procedures for protected disclosures of improper governmental activities and/or significant threats to health or safety. The policy included guidelines for handling employee disclosures that were received by either the vice chancellor of human resources or the assigned campus administrator. Our review of this EO and observations at the nine campuses visited disclosed that:

- Guidance was not included for handling disclosures that were forwarded to the campuses from the California State Auditor.

- In the introduction section of the policy, campus presidents were directed to establish similar procedures as those included in the EO. However, Section V(A) stated that disclosures received by the assigned campus administrator should be processed in accordance with procedures in the EO. As a result of this ambiguity, four of the nine campuses visited had not developed procedures for handling employee whistleblower disclosures.

- Section V(B) prescribed campus reporting requirements to the CO of all cases of actual or suspected fraud or other irregularity. However, a subsequent memorandum from the CO stated that campuses should report all whistleblower disclosures. Since the EO was not updated to include this reporting requirement, there existed the possibility that the CO would not be notified of all whistleblower disclosures that were received by the campuses and did not involve fraud or irregularities.

Incomplete and ambiguous policies perpetuate inconsistencies in interpretation and compliance by the campuses.
Observations, Recommendations, and Management Responses

Recommendation 7

We recommend that the chancellor’s office review and revise EO No. 821 to ensure clear policy direction to the campuses in handling disclosures that are forwarded from the California State Auditor, establishing campus-based procedures, and reporting disclosures to the CO.

Management’s Response

Agreed. Revised EO to be issued no later than January 3, 2005.

Campus Manager Training

ER training for department managers needed improvement at all eight campuses where manager interviews were conducted.

Interviews with five campus managers at each campus disclosed that in varying degrees, campus managers were not always aware of who to contact and/or how to effectively handle employee sexual harassment and non-discrimination complaints, whistleblower disclosures, and/or allegations of retaliation, and/or campus reconsideration procedures and progressive disciplinary guidelines. We also noted that the campus managers had not always received formal training on sexual harassment and handling informal and formal discrimination complaints, preparing performance evaluations, and/or protecting confidential employee information.

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

GC §13403 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 ER areas.

The directors of human resources (HR) cited various reasons for these issues that included, but were not limited to, the recent departure of previous HR directors and the resultant impact on organizational and development activities, low attendance by faculty and staff in classes or training sessions that were not mandated, and limited financial resources.

Not providing effective training increases the risk of employee complaints and potential lawsuits against the campus and the CSU.
Recommendation 8

We recommend that the chancellor’s office remind the campuses of the importance of providing ER training to campus managers and seeking ongoing assistance from systemwide professional development to provide such training in a cost-effective and efficient manner.

Management’s Response

Agreed. Reminder included in memo sent August 9, 2004.

The following CO efforts have been made in support of Campus Employee Relations Training:

- **Ready-to-go training packages** — To aid campuses in the development and delivery of harassment and other employee relations topics, Systemwide Professional Development purchased a complete training program on the topic of harassment and discrimination in the workplace, as well as a program on avoiding litigation landmines. These training programs are “ready to go” and have been in circulation at the campuses for the past three months. As new commercially available training products appear, we will review and acquire additional titles for campus loan. *There is no charge to the campus.*

- **Do-it-yourself e-learning development** — To assist campuses with the dissemination of campus-specific training, Systemwide Professional Development (SPD) made Macromedia Breeze’s online training tool and space on a dedicated training server at the chancellor’s office available to every human resources office. Of the audited campuses, only two have joined the Breeze team. *There is no charge to the campus.*

- **Good management practices seminars** — In FY 2004/05, there will be a resumption of a small number of campus-based seminars sponsored by SPD. Although limited in the number of offerings and not specifically dealing with topics that are more suitable for campus delivery, the FY 2004/05 training will address good management practice. Announcements of the new seminars will be made via e-mail notice to all HR departments with a request to share the information on their respective campuses. *A small registration fee will be assessed to recover direct seminar expenses.*

- **On-line training readily available** — Utilizing the Breeze platform, SPD will work in collaboration with ER to provide web-based training modules on topics where the greatest deficiencies exist, as evidenced by grievances and inquiries to our call center. Campus HR departments will be able to access our content and quickly and easily “assign” training to employees. *There is no charge to the campus.*
APPENDIX A:
PERSONNEL CONTACTED

Chancellor’s Office
Richard P. West Executive Vice Chancellor and Chief Financial Officer
Joel Block Labor Relations Manager
Christine Helwick General Counsel
Cheri Kitajima Administrative Assistant, Human Resources
Jackie McClain Vice Chancellor, Human Resources
Maria Santos Senior Director, Employee Relations and Practices
Sam Strafaci Associate Vice Chancellor, Human Resources

California State University, Fresno
John D. Welty President
Irene Allen Confidential Office Support, Human Resources
Daniel Bartell Dean, College of Agricultural Sciences and Technology
Robert Boyd Director, Facilities Management/Plant Operations
John Briar Interim Director, Campus Information Systems
Thomas Ebert Associate Vice President for Academic Personnel
Robyn Fares Administrative Support Assistant
John Franz Director, Employee Assistance and Development
Curtis Guagianone Interim Associate Dean, Kremen School of Education and Human Development
John Hoyt Manager, Support Services
Barry Humphrey Associate Vice President, University Advancement
Bruce Hupe Confidential Analyst, Human Resources
Diane Jenkins Benefits Manager, Human Resources
Scott Johnson Athletic Director
Karen Kinney Associate University Librarian
David Moll Director, Public Safety
Jeannine Raymond Acting Vice President of Administration and Director of Human Resources
J. Chris Robinson Internal Auditor
Heather San Julian Administrative Support Assistant, Human Resources
Randy Welniak Associate Athletic Director
Nora Woods Assistant Director, Human Resources

California State University, Fullerton
Milton A. Gordon President
Margaret Atwell Associate Vice President, Academic Affairs
Dick Bednar Senior Director, Information Technology Services
John Beisner Director, University Risk Management
Robert M. Gill Environmental Compliance Manager, Environmental Health and Instructional Safety
Rosamaria Gomez-Amaro Director, Diversity and Equity Programs
Naomi Goodwin Assistant Vice President, Administration
Willie Hagan Vice President, Administration
Christopher Hall Employee Relations Manager
Maryalyce Jeremiah Head Women’s Basketball Coach
APPENDIX A

California State University, Fullerton (continued)
Denise Johnson         Director, Human Resources Operations
Mark Lopez             Executive Assistant to the Chief Financial Officer
John Lynn              Executive Director, Human Resources
Harry L. Norman        Dean, University Extended Education
Gayle Rogers           Accountant
Ephraim Smith          Vice President, Academic Affairs
Keiko Takahashi        Senior Director, Business Systems
Alex Tzoumas           Director, Internal Audit
Mary Watkins           Director, Faculty Affairs and Records

California State University, Hayward
Norma S. Rees          President
John Abbey             Assistant Controller
Juanita Aguilar        Benefits Specialist, Human Resources
Eileen Barrett         Professor and Interim Director, Faculty Development Office
Myrtle Brown           Confidential Office Support, Human Resources
Stanley Clark          Deputy Provost, Academic Affairs
Karen Estellar        Accounting Manager
Randy Gale             Director, Facilities Management
Sheryl Garrett         Manager, Human Resources
Neal Hoss              Assistant Vice President/Controller, Business and Financial Services
Michael Leung          Dean of College of Sciences
Richard Metz           Vice President, Administration and Business Affairs
Gregory Pogue          Assistant Vice President, Human Resources
Alden Reimonenq        Dean, College of Arts, Letters, and Social Sciences
Josie Robles           Confidential Office Support, Human Resources
Amy Sollins            Senior Development Director
Eric Thompson          Procurement Officer/Risk Manager, Procurement and Support Services
Dorian West            Director, Equal Employment Opportunity
Roger Zeedik           Associate Director, Human Resources

California State University, Long Beach
Robert C. Maxson       President
Dorothy Abrahamse      Dean, College of Liberal Arts
Laurie Angel           Division Fiscal Manager, Physical Planning and Facilities Management
Tom Angell             Director of Staff Personnel Services
Lou Caron              Administrative Services Manager, Academic Affairs
Pat Caton              Employee Relations Assistant
Scott Charmack         Associate Vice President, Physical Planning and Facilities Management
Kathleen Cohn          Associate Vice President, Academic Personnel
William Griffith       Vice President, Administration and Finance
Victoria Hamilton      Recruitment and Training Manager
Richard Hernandez      Manager, Custodial Services
Kathleen Hext          Director of Internal Auditing Services
Carol Johnson          Assistant Vice President for Administration and Finance
Elena Macias           Interim Director, Office of Equity and Diversity
APPENDIX A

California State University, Long Beach (continued)
Robyn Rae Mack  Associate Vice President for Budget and Human Resources Management
Leslie Nix-Baker  Director of Employee Relations
Kevin Nguyen  Personnel Computer Specialist
Elizabeth Novack  University Ombuds
Nikco Palmer  Personnel Services Assistant
Donald Para  Dean, College of the Arts
Janet Parker  Director of Budget and Human Resource Information Systems
Laura J. Reilly  Accounts Payable Manager
Jan Reyes  Coordinator, Disability Support and Accommodation, and Former Director, Office of Equity and Diversity
Stanley Skipworth  Captain, University Police
Aysu Spruill  Senior Internal Auditor
Kimberlee Verdugo  Recruitment Coordinator, Personnel Assistant
Ronald Vogel  Dean, College of Health and Human Services
Rosario Yeung-Lindquist  Administrative Services Manager, Library

California State University, Northridge
Jolene Koester  President
John Daly  Manager, Employee Relations
Barbara Gross  Interim Director, Office of Equity and Diversity (OED)
Howard Lutwak  University Internal Auditor
John Mason  Associate Vice President, Faculty Affairs
Stephen Montgomery  Director, Human Resources Services
Gordon Nakagawa  Interim Chair, Asian American Studies, and Former Director, OED
Mohammad Qayoumi  Vice President, Administration and Finance and Chief Financial Officer
Mika Williamson  Manager, Compensation and Employment Programs

San Diego State University
Stephen L. Weber  President
Sue Blair  Director, Center for Human Resources
Valerie Carter  Tax and Audit Manager
Sydney Covey  Administrative Analyst, Academic Affairs
Cheryl Fisher  Director, Office of Diversity and Equity
Joyce M. Gattas  Dean, Professional Studies and Fine Arts
Ellene Gibbs  Director, Business Information Management
Gretchen Jones  Associate Director, Physical Plant
John Z. Konrad  Administrator, Reprographics
Eva Mack  Confidential Office Support
Cindy Ormsby  Accounting Technician
Jeanelle de la Paz Petreikis  Administrative Support Coordinator, Student Affairs
Charles Schwoerke  Lieutenant, University Police Department
Thomas R. Scott  Dean, Sciences
Gena Self  Confidential Technical Support
Jill Tavolazzi  Administrative Analyst, Faculty Affairs
Jennifer Venter  Manager, Center for Human Resources
Bonnie Zimmerman  Associate Vice President, Faculty Affairs
APPENDIX A

San José State University
Donald W. Kassing Acting President and Vice President for Administration and Finance
Joseph N. Crowley Interim President (at time of review)
Sylvia Andrew Dean, College of Social Work
Dona Bertain Associate Vice President, Human Resources Service Group (HRSG)
Bradley Davis Manager of Compliance
Sandra Dewitz Associate Vice President, Institutional Planning and Academic Resources
Zaynna Fakhreddine Assistant to the Associate Vice President, HRSG
Gloria Gutierrez Personnel Services Specialist
Daniel G. Hoebeke Planned Giving Officer
Hannah Israel Equity and Diversity Assistant
Ninh Pham-Hi Internal Audits/Special Projects Assistant to the Vice President
Peter Lee Associate Vice President, Faculty Affairs
Bruce Lowe Captain, University Police Department
Joan Merdinger Associate Dean, Faculty Affairs
Carolyn Nakao Labor Relations Specialist
Mark Novak Associate Vice President and Dean of International and Extended Studies
Raina Schally Employee Relations Analyst
Patricia Turner HRSG Project Specialist
Antonio S. Valenzuela Associate Vice President, Facilities Development and Operations
Deborah Weakland Organizational Development/Training Specialist

California State University, San Marcos
Karen S. Haynes President
Roy McTarnaghan Interim President (at the 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
Steve Garcia Vice President, Finance and Administrative Services/
Chief Financial Officer
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
California State University, Stanislaus
Marvalene Hughes     President
Denice Barr           Associate Director
Donald Bowers         Interim Associate Vice President, Faculty Affairs
David Dauwalder       Provost and Vice President of Academic Affairs
Gary Krietsch         Manager, Planning Services
Mary Kobayashi Lee    Director, Human Resources
Sylvia Lopez          Investigator/Mediator, Equal Opportunity and Internal Relations (EOIR)
Susan MacDonald       Executive Assistant to the President
Steven Meadows        Supervisor, Support Services
Susana Mendoza        Administrative Support Coordinator, EOIR
Stacey Morgan-Foster  Vice President, Student Affairs
Becka Paulsen         Associate Vice President, Business and Finance
Donald Paulsen        Network Manager
Larry Plants          Interim Director and Police Chief
Lee Renner            Director, First Year Programs and Advising
Milton Richards       Director, Athletics
Ann Robinson          Senior Director, Annual Fund and Special Gifts
Mary Stephens         Vice President, Business and Finance
MEMORANDUM

Date: August 9, 2004

To: Larry Mandel
University Auditor

From: Jackie R. McClain
Vice Chancellor
Human Resources

Re: Response to Audit Report No. 03-13 – Systemwide Employee Relations

I want to take this opportunity to thank you and your staff for the fine work done on the above captioned audit. This is a difficult area to audit and involves many technically and politically challenging aspects.

Michelle Schlack is to be commended for her diligence, patience, and cooperative nature. This enabled us to work through many difficult issues. Michelle raised a number of important issues and her efforts are greatly appreciated.

Attached is our response indicating agreement with each recommendation and preceding timelines for compliance.

JRMcC/lpm

Attachments
EMPLOYEE RELATIONS ADMINISTRATION

SYSTEMWIDE POLICIES

Recommendation 1

We recommend that the chancellor’s office:

a. Review, revise, and/or rescind the existing guidelines and memoranda on AIDS and a drug-free workplace.

b. Update EO Nos. 144, 446, and 586 to reflect the current CSU structure and operating environment for collective bargaining activities, handling and reporting reconsideration requests, and imposing employee discipline.

Management’s Response:

Agreed.

a. Review, revision, or rescission to be completed by January 3, 2005.

b. Update or rescission of each EO to be completed no later than January 3, 2005

EO 144: Authorization of State College Presidents to Meet and Confer.

EO 446: Reconsideration Procedures for CSU Employees Not Represented by and Exclusive Representative.

EO 586: Delegation of Authority to Impose Discipline:

UNION LEAVE

Recommendation 2

We recommend that the chancellor’s office:

a. Implement effective monitoring controls to ensure compliance with CSEA contract provisions addressing non-reimbursable leave and the receipt of union reports.

b. Resolve the issue pertaining to the reimbursement from CSEA for FY 2002/03 release time that exceeded the maximum allotment.
c. Provide guidance to the campuses via a technical letter or other similar communication on the proper administration of union leave requests. Such guidance should include, but not be limited to, the need for the campuses to timely and sufficiently bill the unions for release time, including incidental costs, document departmental procedures, and escalate delinquent receivables information to the appropriate labor relations manager or other chancellor’s office personnel for assistance.

Management’s Response

Agreed.

Monitoring system to be implemented no later than January 3, 2005.

b. Issue resolved by mutual agreement as part of 2003/04 memoranda of understanding. To be completed with Board Ratification in September 2004.


COMPLAINTS AND RECONSIDERATION REQUESTS

EXECUTIVE ORDER NO. 675

Recommendation 3

We recommend that the chancellor’s office update EO No. 675 to include clear guidelines for developing and documenting informal investigation procedures and other necessary information.

Management’s Response

Agreed.

Updated EO will be issued no later than January 3, 2005.

EXECUTIVE ORDER NO. 345

Recommendation 4

We recommend that the chancellor’s office review and update EO No. 345 to include clear guidelines for the campuses in the areas of employee complaints, training, and communications.

Management’s Response

Agreed.

Updated EO will be issued no later than January 3, 2005.
Recommendation 5

Prior to, or concurrent with Recommendation No. 5, we recommend that the chancellor's office remind the campuses of the importance of:

a. Updating and maintaining sexual harassment policies and procedures that reflect the current operating environment, align with CSU policy, and ensure timely processing of employee complaints.

b. Making available ongoing harassment training (including sexual harassment) to faculty (including part-time instructors) and staff.

Management's Response

Agreed.

Reminder included in memo to appropriate campus officials sent August 9, 2004.

PERFORMANCE MANAGEMENT

Recommendation 6

We recommend that the chancellor's office:

a. Define and communicate performance evaluation requirements for confidential employees and public safety officers.

b. Remind the campuses of the need to administer performance evaluations as required via collective bargaining agreements, Title 5, and other CSU policies.

Management's Response:

Agreed.

a. Guidelines for confidential employees to be issued no later than January 3, 2005. We have initiated with SUPA discussion of their potential willingness to adopt evaluation requirements for police officers during contract negotiations.

b. Reminder included in memo sent August 9, 2004.
WHISTLEBLOWER DISCLOSURES

Recommendation 7

We recommend that the chancellor’s office review and revise EO No. 821 to ensure clear policy direction to the campuses in handling disclosures that are forwarded from the California State Auditor, establishing campus-based procedures, and reporting disclosures to the CO.

Management’s Response

Agreed.

Revised EO to be issued no later than January 3, 2005.

CAMPUS MANAGER TRAINING

Recommendation 8

We recommend that the chancellor’s office remind the campuses of the importance of providing ER training to campus managers and seeking ongoing assistance from systemwide professional development to provide such training in a cost-effective and efficient manner.

Management’s Response

Agreed.

Reminder included in memo sent August 9, 2004.

The following CO efforts have been made in support of Campus Employee Relations Training.

Ready-to-go training packages

To aid campuses in the development and delivery of harassment and other employee relations topics, Systemwide Professional Development purchased a complete training program on the topic of harassment and discrimination in the workplace as well as a program on avoiding litigation landmines. These training programs are “ready to go” and have been in circulation at the campuses for the past three months. As new commercially-available training products appear, we will review and acquire additional titles for campus loan. There is no charge to the campus.

Do-it-yourself e-learning development

To assist campuses with the dissemination of campus-specific training, Systemwide Professional Development made Macromedia Breeze’s online training tool and space on a dedicated training server at the Chancellor’s Office available to every Human Resources office. Of the audited campuses, only two have joined the Breeze team. There is no charge to the campus.
Good management practices seminars

In FY04 there will be a resumption of a small number of campus-based seminars sponsored by SPD. Although limited in the number of offerings and not specifically dealing with topics that are more suitable for campus delivery, the FY04 training will address good management practice. Announcements of the new seminars will be made via e-mail notice to all HR departments with a request to share the information on their respective campuses. *A small registration fee will be assessed to recover direct seminar expenses.*

On-line training readily available

Utilizing the Breeze platform, Systemwide Professional Development will work in collaboration with Employee Relations to provide web-based training modules on topics where the greatest deficiencies exist as evidenced by grievances and inquiries to our call center. Campus HR departments will be able to access our content and quickly and easily “assign” training to employees. *There is no charge to the campus.*
September 16, 2004

MEMORANDUM

TO: Mr. Larry Mandel
University Auditor

FROM: Charles B. Reed
Chancellor

SUBJECT: Draft Final Report Number 03-13 on Employee Relations, Systemwide

In response to your memorandum of September 16, 2004, I accept the response as submitted with the draft final report on Employee Relations, Systemwide.

CBR/al

Enclosure

cc: Ms. Christine Helwick, General Counsel
 Mr. Dennis Hordyk, Assistant Vice Chancellor, Financial Services
 Mr. Richard P. West, Executive Vice Chancellor and Chief Financial Officer