

ACADEMIC PERSONNEL
CALIFORNIA STATE UNIVERSITY,
EAST BAY

Audit Report 11-62
January 27, 2012

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ABBREVIATIONS

AP	Academic Personnel
CBA	Collective Bargaining Agreement
CFA	California Faculty Association
CSU	California State University
EO	Executive Order
HR	Human Resources
NEO	New Employee Orientation

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 *Academic Personnel* (AP) be reviewed. The Office of the University Auditor has never reviewed AP as a subject audit, although some aspects were covered in the *Human Resources* audits conducted in 2004.

We visited the California State University, East Bay campus from October 31, 2011, through December 8, 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: recruitment and hiring, and training and records. 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 AP activities in effect as of December 8, 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.

RECRUITMENT AND HIRING [6]

The campus did not comply with California State University policies relating to background checks. In addition, academic personnel appointments were not made by the campus president or designee. Also, administration of conflict-of-interest forms needed improvement. Specifically, job announcements for designated positions did not state that the candidate would be required to sign a conflict-of-interest form, and conflict-of-interest forms were not always completed by the required deadline.

EMPLOYEE EVALUATIONS AND SABBATICAL LEAVES [9]

Administration of sabbatical leaves needed improvement. Specifically, sabbatical leave reports verifying that the conditions of the sabbatical leave had been met were not always submitted and documented in personnel action files.

TRAINING AND RECORDS [9]

Communication regarding training requirements for new employees needed improvement. For example, there was no communication and coordination between the human resources, office of equity and

diversity, and risk management departments regarding required employee training. In addition, although nondiscrimination and general harassment training had been developed, employees were not made aware of the training requirements or the available classes in these areas. Further, confidentiality agreements were not always completed for new faculty.

INTRODUCTION

BACKGROUND

Management of academic personnel (AP) involves facilitating the recruitment, development, and retention of the academic workforce. AP includes faculty and academic student assistants in collective bargaining units three and eleven, as well as faculty management employees who are part of the management personnel plan. In the California State University (CSU) system, campus AP offices coordinate with human resources to perform activities that include, but are not limited to:

- ▶ Planning for the movement of AP into, within, and out of employment with the university.
- ▶ Recruiting and selecting faculty, student, and management AP with the appropriate skills, knowledge, and abilities.
- ▶ Training and developing faculty and faculty management to enhance their capabilities.
- ▶ Providing compensation and benefits that attract, motivate, and retain talented employees.
- ▶ Appraising and reporting on faculty, student, and management performance to identify areas that need improvement, and providing positive reinforcement for effective performance.
- ▶ Maintaining effective employee relations.
- ▶ Minimizing the risk of illness and injury in the workplace.

The CSU must comply with collective bargaining agreements, systemwide mandates, and Board of Trustee policies, as well as major federal and state laws that could affect the academic personnel function. Such laws include, but are not limited to, Title VII of the Civil Rights Act of 1964, the Political Reform Act of 1974, Assembly Bill 1825 (passed in 2004), and other state regulations addressing topics such as safety, harassment, and nondiscrimination in the workplace.

AP management relies on effective information management systems for operational efficiencies and controls; however, most of the information that AP management uses through these systems must remain private in accord with laws such as the Information Practices Act of 1977 and the Health Insurance Portability and Accountability Act of 1996, as well as the Board of Trustees' policies for personal information management.

In fiscal year 2009/10, the CSU expended approximately \$1.8 billion on instruction. This investment underscores the importance of maintaining a dynamic AP function that attracts, develops, and retains qualified personnel.

PURPOSE

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

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

- ▶ Administration and management of the AP function incorporates effective internal controls, adequate local policies and operational procedures, and current written delegations of authority.
- ▶ Processes and procedures ensure timely and effective communication of CSU and campus employment policies and federal and state employment laws and regulations.
- ▶ Employees are sufficiently apprised of acceptable business practices and expected standards of ethical and moral behavior, as well as the need to report conflict-of-interest situations.
- ▶ Faculty and management are sufficiently trained in the appropriate policies and procedures to support compliance with applicable state and federal laws and regulations regarding nondiscrimination and affirmative action, harassment, and safety.
- ▶ Recruitment, selection, hiring, and appointment activities are properly authorized, employment eligibility is verified, and compliance with state and federal laws and regulations and collective bargaining agreements is maintained.
- ▶ Professional licenses, certificates, and/or registration requirements for applicable employees are properly maintained.
- ▶ Procedures governing faculty evaluations and the review of sabbatical leave events conform with the collective bargaining agreement.
- ▶ Separations comply with existing laws and regulations and observe good business practices in accordance with CSU policy.
- ▶ Compensation and benefit requests and confidential hard-copy and system information, such as information pertaining to recruitment, selection, and hiring activities, are reasonably secure.

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 AP includes activities involved in the recruitment, hiring, evaluation, and retention of employees directly involved with the academic operations of the CSU system and the individual campuses. Proposed audit scope would include, but was not limited to, review of recruitment and hiring processes for compliance with employment laws and regulations; evaluation of employees as required per collective bargaining agreements; administration of the family medical leave and other employee programs; 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 state and federal laws, Board of Trustee policies, and Office of the Chancellor and campus policies, letters, and directives. The audit focused on procedures in effect from July 1, 2009, through December 8, 2011.

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

- ▶ Recruitment, selection, and hiring activities for academic employees, including training processes.
- ▶ Conflict-of-interest and employment eligibility forms and procedures.
- ▶ Maintenance and protection of confidential human resources information.
- ▶ Employee evaluations, sabbatical leaves, and separation procedures.
- ▶ Record retention and disposition.

OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

RECRUITMENT AND HIRING

BACKGROUND CHECKS

The campus did not comply with California State University (CSU) policies relating to background checks.

We found that:

- ▶ The campus had not established a background check policy.
- ▶ The campus had not determined which positions were sensitive, and therefore recruitment information and job announcements for sensitive positions did not include information regarding background checks.

Coded Memorandum Human Resources (HR) 2005-10, *Background Checks*, effective March 1, 2005, states that it is the campus' responsibility to develop and maintain general written guidelines regarding background checks that comply with governing laws, including provisions to obtain the applicant's or employee's authorization when required. The campus must determine whether a position should be designated as sensitive and document that information on the position description. In addition, the campus must ensure all recruitment information, announcements, and position descriptions state whether a position requires a background check. The campus should also notify the individual under consideration for a sensitive position that offer of any personnel action is conditional on successful completion of a background check and that falsification of information provided may be cause for corrective action or rejection.

The interim vice president of administration and finance stated that background checks were limited to those individuals who work with minors in the athletics department.

Failure to develop background check policies and to inform potential candidates of required background checks could result in failed searches and potential complaints against the campus, and failure to perform background checks increases campus exposure to loss from inappropriate acts.

Recommendation 1

We recommend that the campus:

- a. Develop and implement a background check policy.
- b. Determine which campus positions are sensitive, and ensure all recruitment information and job announcements for sensitive positions include information regarding background checks.

Campus Response

We concur. A draft background check policy including designation of sensitive positions has been prepared and will be implemented not later than May 1, 2012. Effective March 1, 2012, job announcements for all designated sensitive positions have been posted with information regarding required background checks.

APPOINTMENT NOTIFICATIONS

Academic personnel appointments were not made by the campus president or designee.

We reviewed 12 tenure-track and temporary faculty appointments and six teaching associate appointments and found that the provost signed the appointment letters without written delegated authority from the president.

Collective Bargaining Agreement (CBA), California Faculty Association (CFA), Unit 3, Article 12.1 states that after considering the recommendations, if any, of the department or equivalent unit and the appropriate administrator, appointments of employees shall be made by the president. Appointments may be temporary, probationary, or tenured. Appointments shall be made through written notification by the president. No employee shall be deemed appointed in the absence of an official written notification from the president.

CBA, CFA, Unit 3, Article 2.18 states that the term “president” as used in this agreement refers to the chief executive officer of a university or college or his/her designee.

CBA, United Auto Workers, Unit 11, Article 2.10 states that no employee shall be deemed appointed in the absence of an official written notification from the president.

The interim vice president of administration and finance stated that the delegation was implied but never documented.

Failure to appoint faculty and teaching associates in accordance with campus and CSU policies could result in complaints of discriminatory practices.

Recommendation 2

We recommend that the campus ensure that faculty and teaching associate appointments are made by the campus president or the president’s designee with a written delegation of authority in place.

Campus Response

We concur. Existing internal delegation of authority documents will be revised prior to May 1, 2012, to include specific delegation of authority to appoint faculty and teaching associates.

CONFLICT OF INTEREST

Administration of conflict-of-interest forms needed improvement.

We found that:

- ▶ Job postings of “designated” positions did not include required language from HR 2010-08 stating that the successful candidate would be required to file a conflict-of-interest form.
- ▶ Two of the five conflict-of-interest forms (Form 700) we reviewed were signed after the April 1, 2011, deadline.

Coded Memorandum HR 2010-08, *New Recruitment Policy – Disclosure Requirements for Specified Positions*, effective July 1, 2010, states that when a “designated position” is subject to a recruitment process, the job posting must include the following statement: “This position is a “designated position” in the CSU’s Conflict of Interest Code. The successful candidate accepting this position is required to file Conflict of Interest forms subject to the regulations of the Fair Political Practices Commission.”

Office of General Counsel, *Conflict of Interest Handbook*, revised August 2009, states that every employee in a designated position must complete an annual statement of economic interests called a Form 700. This form is filed with the campus filing officer on April 1.

The interim vice president of administration and finance stated that the campus was unaware that job postings of “designated” positions required the specific language in HR 2010-08. The associate vice president of risk management and internal control stated that the two conflict-of-interest forms were completed after the deadline due to travel schedule conflicts.

Inadequate control over conflict-of-interest filing requirements increases campus exposure to loss from inappropriate acts and non-compliance with state legislation.

Recommendation 3

We recommend that the campus:

- a. Include the specified language in HR 2010-08 in job postings for “designated” positions.
- b. Ensure that conflict-of-interest forms are signed within the appropriate time frame.

Campus Response

We concur. Effective March 1, 2012, job announcements for all designated positions have been posted with language required in HR 2010-08. Revised procedures regarding conflict-of-interest forms will be put in place prior to May 1, 2012, that escalate non-compliance to the attention of the president so that signed forms are obtained in a timely manner.

EMPLOYEE EVALUATIONS AND SABBATICAL LEAVES

Administration of sabbatical leaves needed improvement.

We reviewed five sabbatical leaves that took place in the 2010 fall semester and found that in two instances, faculty reports verifying that the conditions of the sabbatical leave had been met had not been submitted to the appropriate individuals nor placed in the employee's personnel action file.

CBA, CFA, Unit 3, Article 27.8 states that a faculty unit employee granted a sabbatical leave may be required by the president to provide verification that the conditions of the leave were met. The statement of verification shall be provided to the president and the professional leave committee.

California State University, East Bay, *Procedures and Criteria Used in Sabbatical Leave Application and Difference in Pay Application*, states that upon return from sabbatical leave, a complete report must be submitted to the president with a copy to the professional leave committee.

The interim vice president of administration and finance stated that the monitoring of sabbatical reports was performed at the department level, and therefore the reports were not always received by the office of academic affairs in a timely manner.

Failure to obtain and document verification that the conditions of sabbatical leave were met could result in faculty perception that completion of sabbatical leave conditions was no longer required.

Recommendation 4

We recommend that the campus ensure that faculty reports verifying that sabbatical leave conditions have been met are submitted to the appropriate individuals and placed in the employee's personnel action file.

Campus Response

We concur. Prior to May 1, 2012, revised procedures will be put in place to ensure that sabbatical leave conditions have been met and are documented in the personnel action file.

TRAINING AND RECORDS

TRAINING

Communication regarding training requirements for new employees needed improvement.

We found that:

- ▶ The campus HR department, office of equity and diversity, and risk management department were all responsible for some aspect of required employee training, but there was no communication and coordination between these departments.

- ▶ Communication to employees on required training was insufficient. The campus HR website incorrectly stated that new employee orientation (NEO) and general sexual harassment training were mandatory for all new employees. In addition, the campus office of equity and diversity had developed nondiscrimination and general harassment training, as required by CSU policy, but employees were not made aware of the training requirements or the available classes in these areas. None of the ten faculty new hires we reviewed had completed nondiscrimination or general harassment training.

Executive Order (EO) 883, *Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs*, dated October 31, 2003, states that the president or his/her designee at each campus shall be responsible for the development and implementation of that campus' nondiscrimination policies and affirmative action programs. This includes, but is not limited to, communicating the programs and policies to the campus community and conducting employee training on the nondiscrimination, equal employment, and affirmative action obligations of the CSU. The policy also recommends that training be provided to all new employees shortly after their start dates and periodically thereafter.

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 to prevent harassment and encourage the reporting of harassment, training shall be provided by each campus to all employees upon their initial arrival at the campus. Such training shall explain, but not be limited to: what constitutes harassment under applicable law; the rights and responsibilities of each individual relating to workplace harassment; the protection against retaliation for individuals who report harassment or participate in an investigation; the internal complaint procedures for filing, investigating, and resolving a harassment complaint; and the option and method for filing a harassment complaint with external government agencies. The policy also states that after training has been given to employees upon their first arrival at the campus, training shall be provided, when necessary, to refresh and update employees' knowledge of harassment and retaliation laws.

EO 1039, *CSU Occupational Health and Safety Policy*, dated November 17, 2008, states that campuses shall develop, implement and maintain a health and safety program that includes, but is not limited to, an employee health and safety training program that ensures employees receive adequate training for the task they are performing and/or that is included in the job description/scope of work.

The interim vice president of administration and finance stated that training responsibilities were decentralized and that the faculty affairs office and HR were unaware that certain required training was not monitored.

Failure to clearly communicate training requirements and ensure that faculty attend training required by CSU policy increases the risk that employees will not be fully aware of nondiscrimination, harassment, and safety procedures and requirements, thereby increasing the risk of litigation.

Recommendation 5

We recommend that the campus:

- a. Ensure that the HR department, office of equity and diversity, and risk management department coordinate with each other regarding required training classes for new employees. This should include defining what training classes are required, who will provide the training, and how the training will be tracked.
- b. Ensure that training requirements for new faculty employees are communicated accurately and that employees are made aware of available training classes to meet these requirements.

Campus Response

We concur. Prior to May 1, 2012, the existing MasteryNet system utilized to deliver and track compliance with driver safety training will be expanded to encompass all required training classes for new employees, providing scheduled automatic e-mail notifications regarding required training and tracking reports and escalation in the event that training doesn't occur as required.

CONFIDENTIALITY AGREEMENTS

Confidentiality agreements were not always completed for new faculty.

We reviewed files for four faculty employees hired since July 1, 2009, and found that none had signed the campus access and compliance form.

Coded Memorandum HR 2005-16, *Requirements for Protecting Confidential Personal Data: Updated to Include Information Practices Act Web Site and Security Breach Disclosure Requirements*, states that employees with access to confidential personal data in the CMS baseline system or any other computerized information system are required to sign a data confidentiality agreement acknowledging that the employee understands requirements for protecting confidential personal data. It further states that campuses must use the human resources information system access and compliance faculty confidentiality form when faculty (Unit 3) employees are required to sign a form dealing with the confidentiality of campus records.

The interim vice president of administration and finance stated that the campus relied on informal procedures to identify access requirements for new faculty and had not implemented the confidentiality form specified.

Failure to obtain confidentiality agreements increases campus exposure to loss of confidential and personal data.

Recommendation 6

We recommend that the campus ensure that new faculty members complete confidentiality agreements.

Campus Response

We concur. Prior to May 1, 2012, revised procedures will be put in place to ensure that new faculty members complete confidentiality agreements.

**APPENDIX A:
PERSONNEL CONTACTED**

<u>Name</u>	<u>Title</u>
Leroy M. Morishita	President
Linda Dobb	Interim Associate Provost
Carolyn Fong	Chair, Department of Nursing and Health Sciences
JoAnne Hill	Manager, Human Resources
Andre Johnson	Human Resources Manager
Nyassa Love	Associate Vice President of Risk Management and Internal Control
Denise Needleman	Interim Associate Vice President, Human Resources
Lee Thompson	Deputy Chief Information Officer and Interim Information Security Officer
Gina Traversa	Special Assistant to the Provost
Brad Wells	Interim Vice President, Administration and Finance, and Chief Financial Officer



CALIFORNIA STATE
UNIVERSITY
EAST BAY

Office of the Vice President, Administration
and Finance & Chief Financial Officer

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March 30, 2012

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UNIVERSITY AUDITOR

APR - 9 2012

THE CALIFORNIA STATE
UNIVERSITY

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

**RE: Campus Responses to Recommendations:
Audit Report Number 11-62
Academic Personnel, California State University, East Bay**

Dear Mr. Mandel,

Enclosed is our response to the recommendations in Audit Report 11-62, Academic Personnel, at California State University, East Bay.

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

Sincerely,

Mr. Brad Wells
Vice President Administration and Finance and
Chief Financial Officer

BWW

Enclosure

c: Dr. Leroy M. Morishita, President (with enclosure)

ACADEMIC PERSONNEL
CALIFORNIA STATE UNIVERSITY,
EAST BAY

Audit Report 11-62

RECRUITMENT AND HIRING

BACKGROUND CHECKS

Recommendation 1

We recommend that the campus:

- a. Develop and implement a background check policy.
- b. Determine which campus positions are sensitive, and ensure all recruitment information and job announcements for sensitive positions include information regarding background checks.

Campus Response

We concur. A draft background check policy including designation of sensitive positions has been prepared and will be implemented not later than May 1, 2012. Effective March 1, 2012, job announcements for all designated sensitive positions have been posted with information regarding required background checks.

APPOINTMENT NOTIFICATIONS

Recommendation 2

We recommend that the campus ensure that faculty and teaching associate appointments are made by the campus president or the president's designee with a written delegation of authority in place.

Campus Response

We concur. Existing internal delegation of authority documents will be revised prior to May 1, 2012, to include specific delegation of authority to appoint faculty and teaching associates.

CONFLICT OF INTEREST

Recommendation 3

We recommend that the campus:

- a. Include the specified language in HR 2010-08 in job postings for "designated" positions.
- b. Ensure that conflict-of-interest forms are signed within the appropriate time frame.

Campus Response

We concur. Effective March 1, 2012, job announcements for all designated positions have been posted with language required in HR 2010-08. Revised procedures regarding conflict-of-interest forms will be put in place prior to May 1, 2012, that escalate non-compliance to the attention of the president so that signed forms are obtained in a timely manner.

EMPLOYEE EVALUATIONS AND SABBATICAL LEAVES**Recommendation 4**

We recommend that the campus ensure that faculty reports verifying that sabbatical leave conditions have been met are submitted to the appropriate individuals and placed in the employee's personnel action file.

Campus Response

We concur. Prior to May 1, 2012, revised procedures will be put in place to ensure that sabbatical leave conditions have been met and are documented in the personnel action file.

TRAINING AND RECORDS**TRAINING****Recommendation 5**

We recommend that the campus:

- a. Ensure that the HR department, office of equity and diversity, and risk management department coordinate with each other regarding required training classes for new employees. This should include defining what training classes are required, who will provide the training, and how the training will be tracked.
- b. Ensure that training requirements for new faculty employees are communicated accurately and that employees are made aware of available training classes to meet these requirements.

Campus Response

We concur. Prior to May 1, 2012, the existing MasteryNet system utilized to deliver and track compliance with driver safety training will be expanded to encompass all required training classes for new employees providing scheduled automatic e-mail notifications regarding required training and tracking reports and escalation in the event that training doesn't occur as required.

CONFIDENTIALITY AGREEMENTS

Recommendation 6

We recommend that the campus ensure that new faculty members complete confidentiality agreements.

Campus Response

We concur. Prior to May 1, 2012, revised procedures will be put in place to ensure that new faculty members complete confidentiality agreements.

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

CHANNEL ISLANDS

April 16, 2012

CHICO

MEMORANDUM

DOMINGUEZ HILLS

EAST BAY

TO: Mr. Larry Mandel
University Auditor

FRESNO

FULLERTON

FROM: Charles B. Reed
Chancellor



HUMBOLDT

SUBJECT: Draft Final Report 11-62 on *Academic Personnel*,
California State University, East Bay

LONG BEACH

LOS ANGELES

In response to your memorandum of April 16, 2012, I accept the response as submitted with the draft final report on *Academic Personnel*, California State University, East Bay.

MARITIME ACADEMY

MONTEREY BAY

CBR/amd

NORTHRIDGE

POMONA

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS