

Title IX Audit

Audit Report # 17-01

March 27, 2017

The University of Texas at El Paso
Institutional Audit Office

"Committed to Service, Independence and Quality"



March 27, 2017

Dr. Diana Natalicio
President, The University of Texas at El Paso
Administration Building, Suite 500
El Paso, Texas 79968

Dear Dr. Natalicio:

The Office of Auditing and Consulting Services has completed a limited scope audit of the Campus Title IX policies and procedures at The University of Texas at El Paso. The objectives of this audit were to determine compliance with applicable federal regulations as well as The University of Texas System and institutional policies and procedures.

We appreciate the cooperation and assistance provided by the Office of Equal Opportunity and Office of Student Conduct and Conflict Resolution during our audit.

Sincerely,

Lori Wertz
Chief Audit Executive

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Cecilia Estrada, Internal Auditor

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EXECUTIVE SUMMARY

The Office of Auditing and Consulting Services has completed a limited scope audit of the practices related to the administration of the Title IX Sexual Harassment component at The University of Texas at El Paso.

During the audit we tested the following:

- A. Campus Awareness and Training Programs
- B. Investigations, Adjudication and Proceedings
- C. Security of sensitive and confidential information
- D. Title IX Sexual Harassment Policies and Procedures

The area of Title IX-Sexual Harassment is equally administered in two departments, the Office of Equal Opportunity and the Office of Student Conduct and Conflict Resolution.

Both offices are functioning effectively and in compliance with federal regulations outlined in The US Department of Education-Dear Colleague Letters concerning Title IX-Sexual Harassment and Violence rules.

BACKGROUND

The Office of Equal Opportunity website states: *“The University of Texas at El Paso (“University”) is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities that are federally funded. Sexual misconduct is a form of sex discrimination and will not be tolerated; sexual misconduct includes sexual harassment, sexual violence, sexual assault, stalking, domestic violence and/or dating violence.*

The essence of Title IX is that an institution may not exclude, separate, deny benefits to, or otherwise treat differently any person on the basis of sex. It protects students, employees, applicants for admission and employment, and other persons from all forms of sex discrimination. This commitment to non-discrimination applies to both employment in and admission to such programs and activities. Title IX also applies to issues of program equity such as in athletics and sexual harassment and sexual violence.”

The United States Department of Education Office for Civil Rights (OCR) issued a Dear Colleague Letter, dated April 4, 2011, giving guidance for student sexual harassment and sexual violence complaints. In this letter and other communications, it provides information to assist educational entities of higher learning in meeting their responsibilities as required under Title IX-Sexual Harassment and Violence regulations. OCR's legal authority is based on these laws and regulations. The guidance provides information on how OCR evaluates whether covered entities are complying with their legal obligations.

AUDIT OBJECTIVES

The overall audit objective was to review processes utilized by The University of Texas at El Paso (UTEP) in administering Title IX Sexual Harassment and Violence regulations for compliance, to include the following:

- Training and awareness programs for adequacy and effectiveness,
- investigation, adjudication and proceedings for sexual harassment and violence cases,
- security of sensitive and confidential information, and
- policies and procedures concerning Title IX.

SCOPE AND METHODOLOGY

The audit scope was limited to a review of Title IX administrative activity during the period of September 1, 2015 to October 31, 2016. Audit methodology included review of Department of Education Dear Colleague Letter guidance, The University of Texas System checklist, and college and university best practices.

The audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

To accomplish our audit objectives, we performed the following procedures:

- gained an understanding of the US Department of Education regulations by reviewing the Dear Colleague Letter and the Policies and Procedures for Title IX,
- reviewed best practices in the implementation of Title IX compliance with laws, regulations and institutional policies and procedures,
- examined case documents for timeliness and reporting requirements, and
- verified security controls for sensitive and confidential information.

RANKING CRITERIA

All findings in this report are ranked based on an assessment of applicable qualitative, operational control and quantitative risk factors, as well as the probability of a negative outcome occurring if the risk is not adequately mitigated. The criteria for the rankings are as follows:

Priority - an issue identified by an internal audit that, if not addressed timely, could directly impact achievement of a strategic or important operational objective of a UT institution or the UT System as a whole.

High – A finding identified by internal audit that is considered to have a medium to high probability of adverse effects to the UT institution either as a whole or to a significant college/school/unit level.

Medium – A finding identified by internal audit that is considered to have a low to medium probability of adverse effects to the UT institution either as a whole or to a college/ school/unit level.

Low – A finding identified by internal audit that is considered to have minimal probability of adverse effects to the UT institution either as a whole or to a college/school/unit level.

This audit resulted in no reportable findings.

AUDIT RESULTS

A. Title IX Trainings and Awareness Program

The Dear Colleague Letter emphasizes the awareness program and training of students, faculty and staff on all aspects of Title IX Sexual Harassment and Violence regulations, and the rights provided under the law. These campus-wide awareness trainings are targeted to Responsible Employees, Coordinators and Administrators in charge of implementing the institution's response to sexual harassment and violence claims. The training must be readily available on a regular basis, and all types of mediums are recommended for use in the awareness program to reach the whole campus community, including visitors and contract employees.

A1. Training of Title IX Coordinators, Deputy, and Administrators

To comply with Title IX, detailed trainings on sexual harassment/violence are to be made regularly available to personnel who will be administering policy, investigating complaints and adjudicating Title IX Sexual Harassment and Violence violations. The Title IX Coordinator, Deputy Coordinators, office staff and other administrators were identified and a review of training records was performed to determine the appropriateness and adequacy of trainings taken.

Training was found to be appropriate and adequate to ensure that responsible employees, coordinators and administrators were properly trained on Title IX sexual harassment and violence regulations and applicable policies and procedures.

A2. Awareness Program

In order to be effective, Title IX notices, publications and materials detailing the institution's policies and procedures, individual rights, support resources, and outcome remedies, must reach the full campus community using all types of communication mediums. Auditors reviewed and observed the mediums used by the institution in determining whether the information was easily available.

The Awareness program on campus appears to be comprehensive and effective. The information reviewed included online technology, email, publications, flyers, presentations and ongoing campus initiatives, and was easily accessible by the campus community.

B. Investigations, Adjudication and Proceedings

Title IX Sexual Harassment and Violence complaints are managed by two offices: the Equal Opportunity Office (EO) and the Office of Student Conduct and Conflict Resolution (OSCCR). EO handles complaints related to faculty and staff, while OSCCR takes care of student complaints.

B1. Testing Procedures

A judgmental sample of three complaints from each office was selected to test. The EO received 20 complaints during the period covered by our audit; six of which were referred to OSCCR. The OSCCR received 42 complaints. Testing criteria consisted of the "Dear Colleague" letter dated April 4, 2011, section (C) Grievance Procedures issued by the U.S. Department of Education. The provisions tested include resources available to students, communication to parties involved in an investigation and timeliness of the process.

The results of our testing are as follows:

- Resources and support services were made available to the complainant.
- Both the complainant and the respondent received status updates at regular intervals during the investigation.
- The investigation process reached a timely decision as recommended by the "Dear Colleague" letter.
- Final decisions and appeals were adequately communicated.

The documentation on the case files tested indicate that EO, as well as OSCCR, took the appropriate action to comply with Title IX regulations and guidance as outlined in U.S. Department of Education Dear Colleague Letters. No exceptions were noted.

C. Security of Information

As defined by the UTEP Information Security Policies, Department Heads, Owners and Custodians of information resources must ensure that sensitive and confidential information is adequately secured and protected. They are responsible for compliance with university security policies and directives for maintaining the integrity of information in their possession.

C.1 Security of Electronic Information and Hard Copy Documents

We reviewed access controls and physical security of sensitive and confidential information being compiled and stored by the EO and OSCCR. We reviewed owners and custodians of confidential information resources found on servers and hard copy document files to determine if they were active employees, had the required training and if their job duties required them to have access to the confidential information.

The results of our review found that the sensitive and confidential information was adequately secured and access was appropriate for job responsibilities. No exceptions were noted.

D. Policies and Procedures

The U.S. Department of Education (DOE) Title IX regulations call for institutions to develop and publish policies and procedures that prohibit the discrimination of individuals on the basis of sex in education programs, activity and employment, as well as to address complaints of sexual harassment and violence as a form of discrimination.

According to the Dear Colleague Letter dated April 4, 2011, the institution's policies and procedures should provide for:

- reporting incidents of sexual harassment and violence,
- timely and appropriate response to violations,
- investigations that are thorough, consistent and equitable,
- regular updates of proceedings provided to the complainant and respondent,
- disciplinary outcome notifications,
- right to appeal outcomes,
- interim and final remedy actions,
- communication of the available support services,
- prohibiting retaliation, and
- periodic assessment of the Institution's Title IX program efforts

D.1 Handbook of Operating Procedures (HOPs), Title IX Webpages and Annual Security and Fire Safety Report

Auditors reviewed the institution's Handbook of Operating Procedures, Annual Security and Fire Safety Report and Title IX webpages to determine if the required policy and procedure categories listed in the 2011 Dear Colleague were addressed.

Based on our review, the University has developed and documented appropriate and adequate policies and procedures as required by Title IX regulations. No exceptions were noted.

CONCLUSION

Based on the results of audit procedures performed, we conclude that the university Title IX processes complies with federal Title IX Sexual Harassment and Violence regulations and the institution's policies and procedures.

We wish to thank the management and staff of EO and OSCCR for their assistance and cooperation provided throughout the audit.