Athletics:
Student Welfare
And
Employee Conduct

Audit Report # 15-06
November 10, 2015

Office of Auditing and Consulting Services

"Committed to Service, Independence and Quality"
November 10, 2015

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 Athletic Department’s administrative processes for managing Employee Conduct and Student Welfare.

During the course of the audit, we identified some opportunities for improvement and offered corresponding recommendations in the audit report. The recommendations are intended to assist in strengthening the internal controls and ensuring the department’s mission, goals and objectives are achieved.

We appreciate the cooperation and assistance provided by the Athletics Department throughout our review.

Sincerely,

Lori Wertz, CPA
Chief Audit Executive
Report Distribution:

University of Texas at El Paso (UTEP)

Mr. Richard Adauto III, Executive Vice President
Mr. Robert Stull, Athletics Director, Intercollegiate Athletics
Mr. David Kooger, Director of Compliance
Ms. Julie Levesque, Senior Associate Athletics Director, Senior Woman Administration
Ms. Sandra Vasquez, Assistant Vice President for Equal Opportunity (EO) and Compliance

University of Texas System (UT System)

Dr. Steven Leslie, Executive Vice Chancellor for Academic Affairs
Mr. Alan Marks, Assistant Vice Chancellor of Academic Affairs & Athletics Counsel
Mr. J. Michael Peppers, Chief Audit Executive
Mr. Mark Salamasick, Executive Director, Audit Academic

External

Governor’s Office of Budget
Mr. Ed Osner, Legislative Budget Board
Internal Audit Coordinator, State Auditor’s Office
Sunset Advisory Commission

Audit Committee Members

Mr. David Lindau
Mr. Steele Jones
Dr. Stephen Riter
Dr. Howard Daudistel
Dr. Roberto Osegueda

Auditors Assigned to the Audit:

Lorenzo Canales (Project Manager)
Mirna Naylor (Lead Auditor)
The University of Texas at El Paso
Office of Auditing and Consulting Services
Athletics – Employee Conduct and Student Welfare – Audit #15-06

Table of Contents

EXECUTIVE SUMMARY .......................................................... 1
BACKGROUND ........................................................................ 2
AUDIT OBJECTIVES .............................................................. 2
SCOPE AND METHODOLOGY .................................................. 2
AUDIT RESULTS ..................................................................... 3
   Student Athlete Welfare ..................................................... 3
   A.1 Policies and Procedures ................................................. 3
   A.2 Training and Awareness ............................................... 3
   A.3 Gender Equity Plan and Title IX guidance ...................... 5
Employee Agreements ............................................................. 6
   B.1 Employee Agreements .................................................. 6
CONCLUSION ......................................................................... 7
EXECUTIVE SUMMARY

The Office of Auditing and Consulting Services has completed a limited scope audit of Athletics - Employee Conduct and Student Welfare. The audit scope was limited to selected administrative activities of the Athletics Department for the period of September 1, 2013 through December 31, 2014. The objective of this audit was to determine whether the Athletic Department at The University of Texas at El Paso (UTEP) is in compliance with existing policies and procedures related to Title IX, National Collegiate Athletic Association (NCAA) regulations and campus procedures related to the administration of athletics employees’ conduct and the welfare of student athletes.

During the audit we noted the following:

- Guidance on the UTEP Miners website, which serves as a resource to external interests, student athletes, staff and coaches, is not updated regularly. The Athletics Compliance Office Policies and Procedures Manual and the Sports Medicine Manual found on the website contained outdated information which was updated during the course of the audit; however, the website was not updated with revised documents prior to the end of the audit.

- Based on the current methods used for tracking of trainings provided to students, student athletic trainers, coaches and staff, it was difficult to determine whether individuals actually received the appropriate trainings. In addition, student athletic trainers do not receive formal training related to the Family Educational Rights and Privacy Act.

- The Athletics Department does not have a documented gender equity plan, as recommended by the NCAA and stated in the Athletics Strategic Plan for 2013-2018.
BACKGROUND

The purpose of the UTEP Athletics Compliance Program is to ensure that institutional staff members, student athletes and external constituents are aware of and abide by the rules and regulations set forth by the National Collegiate Athletic Association (NCAA), Conference USA (C-USA), and The University of Texas at El Paso (UTEP).

The goal of the UTEP Athletics Compliance Program is to take a proactive approach with its compliance effort by educating, overseeing and monitoring the Athletic Department and maintaining a positive compliance environment.

The Athletics' Compliance Office coordinates, monitors and verifies compliance with all NCAA requirements and educates the various internal and external UTEP constituents regarding NCAA, C-USA and University rules. The Office is dedicated to providing educational and interpretive support to ensure that all individuals involved with the Athletic Department understand and adhere to compliance expectations.

AUDIT OBJECTIVES

The objectives of this audit were to:

• verify student athlete welfare is effective, aligned with current risk areas, NCAA Rules, and best practices, and is monitored for compliance,

• determine whether the level of training, specifically regarding awareness of Title IX requirements to employees and student athletes, is appropriate and sufficient, and

• determine whether employee contractual agreements are in compliance with applicable regulations and requirements promulgated by the NCAA, other regulatory agencies and University policies and procedures.

SCOPE AND METHODOLOGY

The scope of the audit included administrative and compliance processes as related to employee conduct and student athlete welfare and equity, specifically NCAA Bylaws related to Conduct and Employment of Athletics Personnel and Title IX requirements in effect during the period beginning September 1, 2013 through December 2014.

Audit procedures included:

• reviewing the Athletics Compliance Policies and Procedures Manuals and the NCAA Division I Manual,

• interviewing key management and personnel,
• reviewing the staff training tracking system, and
• testing of required student athlete records and NCAA forms on a sample basis.

Our audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

AUDIT RESULTS

Student Athlete Welfare

A.1 Policies and Procedures

Compliance manuals provide information on regulations, bylaws, training requirements and guidance to employees and students. It is essential to keep the procedure manuals current to reflect changes in key personnel, UTEP policies and the NCAA environment.

During our review of Athletics policies and procedures, we noted that two manuals, the Sports Medicine Manual and the Athletics Compliance Office Policy and Procedures Manual that appear on the Miner Athletics website had not been updated since 2010 and 2011, respectively. Both manuals were updated and the new versions were provided to the auditors before the completion of the audit fieldwork phase; however, the website has not been updated with this latest version prior to the end of the audit. Additionally, the organizational chart for the Athletics Department provided by management was dated September 1, 2007.

Recommendation: Information in the Athletics Compliance Office manuals and corresponding website should be systematically revised and updated to ensure that it accurately reflects current personnel, UTEP operations procedures and NCAA compliance information.

Management Response: Compliance manual is revised and updated. The Sports Medicine Manual is revised and updated. Both manuals are on the athletics web site. The Athletics Department organizational chart is current.

Responsible Party: Julie Levesque

Implementation Date: 10/23/15

A.2 Training and Awareness

Training: Record Keeping

The Athletics Department uses the Student-Athlete Handbook as a tool to train students on compliance issues to include: Student-Athlete Code of Conduct, Equal Opportunity and Affirmative Action, sexual harassment and NCAA compliance. All student athletes receive the
The handbook and are required to read, sign and date the Student-Athlete Handbook Agreement Form as confirmation that they have understood the required training in these areas.

OACS judgmentally selected a sample of 24 student athletes to test for compliance with training requirements. The forms of five student athletes, all football participants, could not be located by the Athletics Department staff. Consequently, we were unable to determine if the student athletes received the required training.

Training: FERPA Rules for Student Athletic Trainers

The Family Educational Rights and Privacy Act (FERPA) “is a Federal law that protects the privacy of student education records. FERPA applies to all schools that receive funds under an applicable program of the U.S. Department of Education.”

As per the UTEP Sports Medicine Policies and Procedures Manual, Professional and Ethical Behavior: "Athletic training students necessarily have access to medical documents and information that is considered confidential. Patient confidentiality is of the utmost importance in any health care setting, including athletic training. With the lone exception of discussing injuries or conditions with other members of the athletic training staff in order to ensure effective and proper assessment and/or treatment, athletic training students should never under any circumstances discuss specific injuries with anyone for any reason.”

The UTEP’s student athletic trainers do not receive formal FERPA privacy rules training; therefore, we could not determine if all athlete training students are receiving adequate information to protect the privacy of student athlete health information.

Training: Verification of Training Received by Athletics’ Employees

Based on the current tracking method used for staff attendance at Title IX related trainings, it was difficult to determine whether the appropriate employees actually attended. The department currently relies on sign-in sheets at the training sessions, which may or may not have been updated with the names of new employees and student/employees.

Recommendation:

- The Department needs to formally document the training program for Title IX, FERPA and NCAA student-athlete compliance.
- The department should consider the use of electronic web based tools to document the training records of the department’s employees and students in a more efficient and effective manner.

Records of employees, coaches and student athletes’ training should be maintained as evidence of the department’s instructional and compliance awareness activities, as well as to ensure compliance with training requirements in all areas of the athletic environment.
**Management Response:** FERPA: Student Athletic Trainers will need FERPA training which will be scheduled through the Office of the Assistant Vice President of Enrollment as needed.

**Title IX:** We are the participants in the Title IX training and as a courtesy to the organizers of the Title IX training, we provide the sign-in sheets. Beginning in 2016, we will provide the sign in sheets to the Deputy Title IX coordinator with the athletic staff names typed in and only require the participants to fill in their position and their signature. We will also have someone monitoring the sign in process. If staff members do not make the special athletics Title IX training that is offered, staff members are required to take the training that is offered on campus by the Deputy Title IX Coordinator. Copies of the sign in sheets are provided to the SWA which are compiled on a department master list. Student athletes are trained at the MAAC by a Deputy Title IX Coordinator in conjunction with their annual academic meetings.

**NCAA Compliance:** NCAA student athlete compliance meetings will now require sign in sheets.

**Student Athlete Handbook:** Beginning 2015-2016, all handbook agreement forms are crossed checked with current team participants. Mid-Year transfers will also be given the handbook when they arrive to campus. When handbooks are passed out, we also verbally review the agreement sections with the student athletes.

**Responsible Party:** Julie Levesque

**Implementation Date:** 09/30/2016

**A. 3 Gender Equity Plan and Title IX guidance**

According to the NCAA Gender Equity Planning, Best Practices:

"While the NCAA does not enforce Title IX, the NCAA membership expects all schools to have an active gender equity plan. The plan is meant to guide the institution in evaluating, monitoring and improving its gender equity performance."

..."The goal for gender equity planning should be proactive. It is far more productive and cost-effective to engage in constructive planning and ongoing review of Title IX compliance than to wait for internal or external complaints, OCR review and/or lawsuits...Schools are encouraged to "stay current" with changes in the regulations and court decisions."

Although the 2013-2018 UTEP Athletics Strategic Plan includes as one of the initiatives to "examine the gender equity plan status and strategies to comply with [Office of Civil Rights] ORC,” OACS noted that the Athletics Department has not developed a gender equity plan.
Recommendation:

- Develop a written gender equity plan that states measureable goals and identifies the steps required to achieve those goals with clearly expected outcomes,
- regularly monitor and evaluate the progress made on the strategic phases documented in the gender equity plan, and
- keep detailed records to document how the institution has worked towards compliance.

Management Response: In 2015 a five year gender equity plan will be developed. Data is currently being collected from the NCAA and other Universities to assist in the planning process.

Responsible Party: Julie Levesque

Implementation Date: December 17, 2015

Employee Agreements

B.1 Employee Agreements

The coaches’ employee agreements outline the terms of employment, general and specific duties and responsibilities that are expected to be complied with. Included in each agreement are NCAA and other regulatory rules that coaches are required to follow. The agreements also state the causes for suspension and termination of the employment agreement.

A judgmental selection of athletic department employees was tested for employment agreements on file and compliance with NCAA Bylaws, and University policies and procedures. No exceptions were noted.
CONCLUSION

During the audit, weaknesses were identified in the internal controls processes for student athlete welfare which can be strengthened by implementing the recommendations detailed in this report.

We wish to thank management and staff of the Athletics’ Department for their assistance and cooperation provided during the audit.