Title IX (Sexual Harassment/Sexual Violence) Compliance
Internal Audit Report
Project # 2015-26

October 16, 2015

Reviewed by: Dr. Ricardo Romo
President
Objective
Determine if UTSA’s policies and procedures comply with Title IX of Education Amendments of 1972 as it relates to sexual harassment/sexual violence. Sources utilized as references for compliance are:
- the April 2011 and April 2015 Dear Colleague Letters from the Department of Education,
- the April 2014 White House Task Force Report and checklist, and
- recent Office for Civil Rights’ resolution letters and agreements.

Conclusion
UTSA’s policies and procedures comply with Title IX of Education Amendments of 1972 as it relates to sexual harassment/sexual violence to mitigate these risks.

The Title IX Coordinator has implemented best practices/proactive measures to increase campus awareness to prevent sexual harassment and sexual violence.

Employees received Title IX training through the required Institutional Compliance Office training when they were hired and bi-annually thereafter. UTSA chose to provide expanded, comprehensive training beyond the 2011 Dear Colleague Letter standards to Heightened Obligation employees and Hearing Officers. The Title IX Coordinator is continuing to ensure all new employees that are Heightened Obligation employees receive the comprehensive training. Communication and awareness is evident between the Title IX Coordinator and other university offices that play a role in campus/student safety and security. Additionally, strong efforts exist to bring awareness and resources to students.

Scope
Our work was limited to the comparison of UTSA’s current published policies and procedures for Sexual Harassment and Sexual Misconduct to the April 2011 and April 2015 Dear Colleague Letters, the April 2014 White House Task Force Report and checklist for sexual misconduct policy, and recent Office for Civil Rights’ resolution letters and agreements. Interviews were conducted with the following UTSA employees who play a role in Title IX compliance: the Title IX Coordinator, Equal Opportunity Investigators, Dean of Students, Associate Dean of Students, Assistant Director for Student Conduct and Community Standards, University Police Assistant Chief, University Police Lieutenant, Academic Affairs Ombudsperson, Student Affairs Ombudsperson, Associate VP Student Services, the Health Education Supervisor, and the Associate Director of Counseling Services. We did not review the detailed investigative files of any student Title IX complaints.
Title IX (Sexual Harassment/Sexual Violence) Compliance
Internal Audit Report - Project # 2015-26

Title IX Background
Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any college that receives federal funds for any purpose. Title IX affects admissions and athletics and in recent years has been emphasized to prohibit discrimination around sexual harassment and sexual violence.

All university campuses are at risk that a student could be a victim of sexual harassment or sexual violence. Additionally, any university campus has the risk of a student's allegation of sexual harassment/sexual violence being handled in a manner that is not compliant with Title IX requirements.

Title IX Coordinator
In Fall 2011, UTSA appointed the Director of Equal Opportunity Services (EOS), who reports to the Chief Legal Officer, as the Title IX Coordinator. The Title IX Coordinator is responsible for conducting Title IX investigations and working with university departments and employees to ensure compliance with UTSA Title IX policies. The Title IX Coordinator is solely responsible for determining if a Title IX violation has occurred and the EOS Office creates a written investigation report containing its findings and recommendations.

The Title IX Coordinator provides the Title IX investigation report to the Dean of Students. The Title IX investigation report will typically include:
- A conclusion, if a violation of HOP 9.01 *Nondiscrimination and Sexual Harassment and Sexual Misconduct* occurred,
- Evidence and facts of the investigation, and
- A referral for review and adjudication under the Student Code of Conduct.

The Title IX Coordinator ensures policies comply with Title IX requirements and has conducted training sessions to educate the UTSA community. All staff and faculty are instructed through training to forward complaints related to sexual harassment or sexual violence to the Title IX Coordinator. University Police, the Office of Student Conduct and Community Standards (SCCS) and other offices refer complaints to the Title IX Coordinator. SCCS is contacted when disciplinary sanctions are required based upon the completion of a Title IX investigation.

UTSA Policies
Handbook of Operating Procedures (HOP) 9.01 *Nondiscrimination and Sexual Harassment and Sexual Misconduct* is the UTSA policy addressing Title IX compliance.
issues related to sexual harassment and sexual violence and states sexual misconduct in any form (including sexual violence) will not be tolerated.

The Student Code of Conduct states students must conduct himself or herself in a manner compatible with the University’s function as an educational institution and outlines actions that can be taken when standards are not adhered to.

In April 2015, the UT System Office of General Counsel issued a Sexual Misconduct Model Policy that expressed minimum standards to be used by UT System institutions to develop a tailored policy. UTSA and the Title IX Coordinator are in the process of reviewing this model policy to ensure HOP 9.01 meets the minimum standards.

See Appendix A for a summary of Office for Civil Rights and other resources utilized to ensure UTSA complies with Title IX Requirements.
AUDIT RESULTS – Policy Assessment

In our opinion, UTSA’s policies and procedures regarding sexual harassment and sexual misconduct generally comply with the Title IX Education Amendments of 1972 and Office for Civil Rights (OCR) guidance. A comparison of current policy and procedures revealed that all necessary requirements set forth by the Dear Colleague Letter were applied within the institution’s policies and procedures. Examples of standards that were applied within the UTSA policy are:

- Institutions must publish a notice of nondiscrimination and to adopt and publish grievance procedures,
- Institutions must ensure Title IX Coordinator has adequate training of sexual harassment and sexual violence and understands the operation of grievance procedures,
- Institutions must take steps to protect complainant including offer interim steps prior to the final outcome of the investigation,
- Institutions must have procedures in place to protect against retaliatory harassment,
- The outcome and any appeal must be communicated to the parties in writing, and
- Institutions may conduct a “climate check” to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and sexual violence, and using the resulting data to produce actions that will be taken by the institution.

Best Practices are suggested by these sources and are also included in the Office for Civil Rights resolution letters and agreements. The Title IX Coordinator has implemented or is in the process of implementing various best practices/proactive measures to increase campus awareness to prevent sexual harassment and sexual violence. Specifically,

- In the Spring of 2015, an institution wide Campus Climate Survey to examine the perception of the campus climate and the training attained by students was conducted. The results are currently being evaluated. Additionally, UT System has contracted to conduct Campus Climate Surveys for UT System institutions in the near future. The Title IX Coordinator is working with UT System’s effort to ensure the results from UTSA’s Campus Climate Survey are incorporated into that process
- UTSA hosted a prevention and education event during April 2015 which is Sexual Assault Awareness Month. The Title
Title IX (Sexual Harassment/Sexual Violence) Compliance
Internal Audit Report - Project # 2015-26

<table>
<thead>
<tr>
<th>Training of All UTSA Employees</th>
<th>IX Coordinator and Office of Equal Opportunity Services, University Police, Student Health Services, various student led groups, and other offices participated in the event.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>➢ In the Fall of 2014, the Title IX Coordinator expanded the Heightened Obligation group to include Peer Mentors. In the Summer of 2015, the Title IX Coordinator expanded the Heighted Obligation group to include Academic Advisors. Peer Mentors and Academic Advisors are employees who work with students frequently.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Best Practices</th>
<th>The Title IX Coordinator is in the process of researching the costs and benefits of implementing additional Title IX best practices at UTSA. He is coordinating with other UTSA employees. Other best practices under consideration include:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>➢ Including standard Title IX language in course syllabi to bring awareness of the institution’s Title IX obligations,</td>
</tr>
<tr>
<td></td>
<td>➢ Implementing free or licensed smart phone application that can be a sexual violence resource for students, and</td>
</tr>
<tr>
<td></td>
<td>➢ Deciding if a telephone hotline is feasible.</td>
</tr>
</tbody>
</table>

**AUDIT RESULTS – Employee Training**

<table>
<thead>
<tr>
<th>Training of All UTSA Employees</th>
<th>At UTSA, all employees have the obligation to report alleged incidents of sexual harassment and sexual violence. Bi-annual compliance training gives an overview of the responsibilities of all university employees to report incidents of discrimination and sexual harassment and sexual violence covered under Title IX to the Title IX Coordinator. Employees receive Title IX training through the required Institutional Compliance Office training when they are hired and bi-annually thereafter. All new employees are required to complete this training within thirty (30) calendar days of their start date. UTSA considers the Institutional Compliance training sufficient communication to all employees of UTSA’s Title IX duties as defined by the 2011 Office for Civil Rights Dear Colleague Letter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heightened Obligation Employees</td>
<td>Heightened Obligation employees consist of Student Affairs, University Police, and faculty. These employees are more likely to witness sexual harassment, sexual violence or receive complaints due to their regular interaction with students. As a best practice, UTSA chose to provide expanded, comprehensive Title IX training beyond the 2011 Dear Colleague Letter standards to Heightened Obligation employees.</td>
</tr>
</tbody>
</table>
The comprehensive training provides the Heightened Obligation employees with the knowledge of how to offer more in-depth assistance to the student by understanding how to apply the Title IX policy and grievance procedures. The Heightened Obligation employee training mitigates the risk that these selected employees are unaware of their duty to notify the Title IX Coordinator and their obligation to provide more generalized assistance to a student. The Heightened Obligation training is given by the Title IX Coordinator in a classroom setting or in a scheduled training class with a department.

The Title IX Coordinator performed initial Heightened Obligation comprehensive sexual harassment/sexual violence training beginning in the Spring of 2012. Title IX Coordinator visited over 88 departments with Heightened Obligation employees and provided comprehensive Title IX training in the classroom in 2012 and 2013. In October 2014, the Title IX Coordinator added a comprehensive Title IX Training Course (SD360) to the UTSA Training and Development training schedule to provide training opportunities quarterly for all UTSA staff and faculty. The Title IX Coordinator obtains a quarterly report from UTSA HR identifying all new hires who are assigned to offices that are considered to have Heightened Obligation employees. The Title IX Coordinator contacts each new hire in these areas advising them that they are required to take the SD360 course. The Title IX Coordinator also contacts all new Academic Affairs personnel and advises them of the requirement to enroll in SD360.

**Comprehensive Title IX training for Hearing Officers**

UTSA Hearings Officers are responsible to oversee hearings of any violations of UTSA’s Student Code of Conduct. As such, Hearing Officers may oversee hearings of Title IX violations concerning sexual harassment/sexual violence.

Hearing Officers receive training about the student conduct process and hearing procedures from the UT System Office of General Counsel. In August 2015, the Title IX Coordinator provided comprehensive training to the Hearing Officers on the unique circumstances of Title IX sexual harassment/sexual violence hearings.
AUDIT RESULTS – Awareness and Coordination

**Student Communication and Awareness**

The Title IX Coordinator and other offices strive to educate students about sexual harassment/sexual violence and Title IX obligations through various activities. Examples include:

- The Title IX Coordinator speaks at freshman and transfer students orientation and new faculty orientation.
- AlcoholEDU and HAVEN are on-line courses that educate students about alcohol, the importance of sexual consent, the elements of healthy relationships, and the role of bystanders. Both programs are mandatory for freshmen.
- UTSA Inter Fraternity Council (IFC) hosted a Call to Action Day in April 2015. The event was an awareness campaign to reduce sexual violence through education. Attendees were asked to make the “It’s on Us Pledge” which is a personal commitment to keep women and men safe from sexual violence.
- The Title IX Coordinator hosted the showing of the Red Blooded Men documentary to explore multiple aspects of college life from a male perspective.

**Coordination Between Departments**

A solid structure for the handling of Title IX complaints and their resolution is in place. It includes coordination with the Title IX Coordinator, University Police, the Office of Student Conduct and Community Standards (SCCS), and other offices. To clarify the understanding of responsibilities and expectations regarding Title IX obligations, a process flowchart was created during the audit to document the process flow of complaint submissions and it was provided to the Title IX Coordinator.

Title IX Coordinator, University Police, SCCS, Housing and Resident Life, and Counseling Services, meet weekly to discuss new dispatch reports received by the University Police. Potential Title IX cases are discussed in the meetings. As appropriate, the facts are given to the Title IX Coordinator to investigate and address.

In addition, the Title IX Coordinator and SCCS meet weekly to discuss complaint progress, and more to ensure the appropriateness and timely handling to address each issue. As appropriate, potential Title IX cases are discussed in the meetings.
Title IX (Sexual Harassment/Sexual Violence) Compliance
Internal Audit Report - Project # 2015-26

Investigation Documentation
The 2011 Dear Colleague Letter states “schools must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audit recordings.” Through interviews with the offices of Equal Opportunity Services, University Police and SCCS, it was determined that access and storage to documentation and database systems is secure.

Conclusion
UTSA’s policies and procedures comply with Title IX of Education Amendments of 1972 as it relates to sexual harassment/sexual violence to mitigate these risks.

The Title IX Coordinator has implemented best practices/proactive measures to increase campus awareness to prevent sexual harassment and sexual violence.

Employees received Title IX training through the required Institutional Compliance Office training when they were hired and bi-annually thereafter. UTSA chose to provide expanded, comprehensive training beyond the 2011 Dear Colleague Letter standards to Heightened Obligation employees and Hearing Officers. The Title IX Coordinator is continuing to ensure all new employees that are Heightened Obligation employees receive the comprehensive training. Communication and awareness is evident between the Title IX Coordinator and other university offices that play a role in campus/student safety and security. Additionally, strong efforts exist to bring awareness and resources to students.

J. Richard Dawson
Institutional Chief Audit Executive

Laura Buchhorn
Audit Manager

Paul Tyler
Director, Auditing and Consulting Services

Raul Huerta
Internal Auditor

This engagement was conducted in accordance with The Institute of Internal Auditors’ International Standards for the Professional Practice of Internal Auditing.
Appendix A: Summary of Title IX Resources Guides

- **April 2011 OCR Dear Colleague Letter**
  In April 2011, the Office for Civil Rights (OCR) issued a Dear Colleague Letter stating that “providing all students with an educational environment free from discrimination is extremely important. Under Title IX, the sexual harassment of students, including sexual violence, interferes with students’ right to receive an education free from discrimination and, in the case of sexual violence, is a crime.” The Dear College Letter clarifies an institutions responsibility to take immediate and effective steps to end sexual harassment and sexual violence.

- **April 2014 White House Task Force Report & Checklist**
  In April 2014, the White House Task Force to Protect Students from Sexual Assault released a report that included a comprehensive checklist for the creating of a sexual misconduct policy and a toolkit to conduct a campus climate survey.

- **April 2014 OCR FAQ**
  In April 2014, the OCR released a frequently asked questions (FAQ) and answers for Title IX compliance, including how to define responsible employees, confidentiality requirements, training requirements, and the differences between Title IX and criminal investigations. Additionally, the FAQ outlines factors of defining prompt resolution of cases and clarifies that complaints occurring off campus must be investigated and highlights considerations for school sponsored and non-school sponsored activities.

- **April 2015 OCR Dear Colleague Letter**
  In April 2015, the OCR issued a Dear College Letter and an updated Title IX Resource Guide. The Sex-Based Harassment portion of the Title IX Resource Guide emphasizes that when a university knows or reasonably should know of possible sex-based harassment, immediate and appropriate steps must be taken to end the harassment and prevent reoccurrence.

- **Office for Civil Rights Investigations**
  Increased demand for accountability for sexual harassment and sexual violence on higher education campus is evident in the ongoing OCR investigations at several universities. As of the date of this report, the list of OCR investigations has increased to over 100. OCR has issued several resolution letters and agreements to institutions of higher education. The universities have responded to the OCR resolution letters with detailed agreements which can be applicable to many universities.