



UNIVERSITY OF
TEXAS
ARLINGTON

TITLE IX COMPLIANCE REVIEW AUDIT

JULY 19, 2017

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MEMORANDUM

TO: Dr. Vistasp Karbhari
President

FROM: Dana J. Nuber *djn*
Interim Chief Audit Executive

Omar Elsaad
Senior Auditor II

DATE: August 14, 2017

SUBJECT: **FY 2016 Audit Plan Engagement:**
Title IX Compliance Review Audit Dated July 19, 2017

EXECUTIVE SUMMARY

We have completed the Title IX Compliance Review audit included in our Fiscal Year 2016 Audit Plan. The objective for this engagement was to review the University's policies and procedures for compliance with Title IX of Education Amendments of 1972 as it relates to sexual harassment and sexual violence.

Based on the audit procedures performed, overall, we determined that the University has established policies and procedures to conform with Title IX requirements related to sexual harassment and sexual violence. Other supportive resources were identified and substantiated. However, an observation was noted on some incoherent references among policies & resources.

This finding is considered significant to the department or process, and not a "priority finding" to the University. A priority finding is defined as *"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. Standard factors for determining a priority finding have been established in three categories: namely, Organizational Controls, Quantitative Risks, and Qualitative Risks."*

We appreciate the courtesy and cooperation we received from the Title IX Coordinator, Deputy Coordinators, Investigators and Compliance Officer throughout this audit.

cc: Jean Hood, Vice President for Human Resources, UT Arlington (Title IX Coordinator)
Shelby Boseman, University Attorney, UT Arlington
Jennifer Chapman, Executive Director, University Compliance Services, UT Arlington

Institutional Audit Committee Voting Members:

Chairman: Randal Rose, Managing Director, JP Morgan Chase
Brian Gutierrez, Vice Chancellor for Finance and Administration, Texas Christian University
Stephen Frimpong, Vice President, Internal Audit, Kimberly-Clark Corporation
Teik Lim, Provost and Vice President for Academic Affairs, UT Arlington
Kelly Davis, Chief Financial Officer and Vice President, UT Arlington
John Hall, Vice President for Administration and Campus Operations, UT Arlington
Chandra Subramaniam, Interim Dean, College of Business, UT Arlington

BACKGROUND INFORMATION

Title IX of the Education Amendments of 1972 is a federal law that prohibits discrimination based on gender in educational institutions which receive federal financial assistance. Title IX also prohibits sexual harassment, which includes sexual assault and sexual violence.

UT Arlington (University) has designated the Vice President for Human Resources to serve as the Title IX Coordinator. The Title IX Coordinator has been charged with monitoring compliance with Title IX requirements and addressing Title IX concerns and complaints. The Coordinator along with Deputy Coordinators are responsible for receiving and investigating complaints of sexual harassment, including sexual assault and sexual violence. The designated Deputy Coordinators include the Executive Director, Office of Equal Opportunity Services, the Assistant Vice President for Student Affairs, and the Vice Provost for Faculty Affairs.

The University previously addressed forms of sexual harassment in Procedure 14-1, *Complaint, Investigation, and Grievance Procedures for Sexual Harassment and Sexual Misconduct*, before creating a policy solely dedicated to Title IX: Policy 5-513, *Sexual Harassment and Sexual Misconduct* (Policy 5-513), in December 2015. Procedure 14-1 was discontinued in August 2016.

OBJECTIVES

1. Determine whether the elements of the University's Policy 5-513 are in agreement with UT System's Office of General Counsel (OGC) Model Policy;
2. Determine whether the University has adopted & published grievance procedures to meet Title IX requirements;
3. Determine whether the University has provided Title IX training to students, employees, and Title IX key personnel;
4. Determine whether the University's Title IX investigation procedures/protocols are consistent with the Title IX policy, completed in a timely manner and documentation adequately retained;
5. Determine whether coordination of responsibilities are defined for Title IX responsible staff and communication to students/employees is clear.

CRITERIA

- Policy 5-513, *Sexual Harassment and Sexual Misconduct Policy*
- UT System's OGC Model Policy, *Sexual Harassment/Sexual Misconduct Policy* (Model Policy)
- U.S. Department of Education, Office for Civil Rights: *Title IX Grievance Procedures Checklist*
- Procedure 21-1, *Handbook of Operating Procedures*
- Policy 1-200, *The Handbook of Operating Procedures*

SCOPE AND METHODOLOGY

Scope: UT Arlington's current policies/procedures and resources in FY 2016.

Methodology: We utilized the following techniques to support our verification and validation:

- Interviewed key personnel involved with Title IX complaints;
- Reviewed available policies/procedures and resources;
- Validated compliance with applicable policies and regulations.

AUDIT RESULTS

Objective 1 Policy Assessment:

UT System's OGC created a Model Policy, dated April 2015, relating to sexual harassment and sexual misconduct, that respective UT System institutions are to use as a minimum to meet Title IX requirements. Internal Audit compared the elements and contents of the University's Policy 5-513 against the Model Policy noting the contents were substantially in agreement. Policy 5-513 includes elements such as statement of non-discrimination on basis of sex, Title IX Coordinator identification and contact information, scope of the policy, parties' rights and victim resources, process for filing complaints, investigation procedures, and definitions. This policy is posted on the University's webpage and is available to students, employees, and others.

The University provides additional information relating to Title IX through a dedicated Title IX webpage. This webpage contains information such as, types of conduct which constitutes sexual harassment/violence, the complaint processes, contact information, etc. Title IX information can also be found in other related UTA policies/procedures and online webpages. Internal Audit navigated through these resources to determine whether content and hyperlink references were accurate.

Criteria: Procedure 21-1, *Handbook of Operating Procedures*, adds instructional detail for implementation of Policy 1-200, *The Handbook of Operating Procedures (HOP)*. Both provide guidelines to ensure that official university policies should be up-to-date and current to reflect any amendments in the HOP.

Condition/Observation: Internal Audit reviewed twelve other Title IX related resources identified in relevant policies/procedures and online pages, and observed some incoherent references among these resources as follows:

1. Five of twelve resources reviewed were still referring through embedded links to the inactive and discontinued Procedure 14-1, *Complaint, Investigation, and Grievance Procedures for Sexual Harassment and Sexual Misconduct*, as the guidance for Title IX concerns instead of Policy 5-513.

2. Four of twelve resources reviewed did not refer to Policy 5-513 as needed when addressing sexual harassment/misconduct concerns.
3. Four of twelve resources reviewed included inaccurate links or referral statements.

Consequence: A reference to inactive policy/procedure or non-current (incorrect) information may lead to confusion and misunderstanding of available guidelines by students and employees at the University.

Recommendation (Medium):

The Title IX Coordinator should review and update related Title IX available resources to be current as recommended by UTA Procedure 21-1. Title IX resources should be clear, accurate and current.

Management Response:

We accept the Recommendation listed above. Please see our responses below.

All broken links have been fixed and now lead to HOP Policy 5-513. All information on the Title IX webpage and the Equal Opportunity webpage referencing Procedure 14-1 and Procedure 14-2 have been replaced with the correct information. The Title IX page under “Frequently Asked Questions” has been corrected to list the Vice President for Human Resources as the Title IX Coordinator. In addition to the above, policy changes in the HOP for Policies 9, 5-503 and 6-750 have been submitted to the University Attorney’s office for correction and final review by the HOP Policy Committee by August 16, 2017.

On the Student Conduct webpage, under the header “Additional Resources,” the link to Sexual Harassment should reference HOP Policy 5-513. We have notified the Title IX Deputy Coordinator for Students that the correction must be made no later than August 16, 2017.

Target Implementation Date:

All changes will be complete and reviewed again by August 16, 2017.

Responsible Party:

Vice President for Human Resources, Title IX Coordinator

(Note: President Karbhari approved the request to hire a full time Title IX Coordinator. The appointment of the Title IX will be completed no later than September 1, 2017).

Objective 2 Grievance Procedures:

Internal Audit reviewed Policy 5-513 and other resources against the guidelines on grievance procedures provided by the Office for Civil Rights (OCR) and noted existence of OCR’s elements within the University’s policies.

The OCR's critical elements include notice to students and employees of the grievance procedures and where complaints may be filed, provisions for adequate and impartial investigation of complaints, designated time frames for complaint process, written notice of the outcome of the complaint, adequate definitions of sexual harassment, notice of available interim measures that may be taken to protect the student in the educational setting, the preponderance evidentiary standard which must be used in resolving a complaint (i.e., more likely than not that sexual violence occurred), notice of potential remedies for students, notice of potential sanctions against perpetrators, and sources of counseling, advocacy, and support.

Objective 3 Title IX Training:

Internal Audit verified that Title IX training pertaining to sexual harassment & sexual violence is provided to students, employees, and key personnel at the University as follows:

- University students receive information on Title IX as a part of their initial required classes, Orientation, and/or through optional educational programs provided by the Relationship Violence and Sexual Assault Prevention (RVSP) Program under the Division of Student Affairs;
- Specific information on Title IX is provided annually to employees as a part of their mandatory annual compliance training program offered by the University;
- Detailed training on sexual harassment/violence is provided annually through third party training providers to key personnel who will be administering policy, investigating complaints and adjudicating Title IX complaints.

Objective 4 Investigation and Document Retention:

The University's investigation procedures for a Title IX complaint are conducted either at the Office of Student Conduct (OSC) as designated by the Title IX Deputy Coordinator for Students, or, at the Office of Equal Opportunity Services (EOS) as headed by Title IX Deputy Coordinator for Staff, Visitors and Contractors. We verified that the investigation steps followed at these offices are documented in Policy 5-513, and other applicable guidelines.

Internal Audit reviewed and validated the timeframe to complete an investigation, and assessed security of retained documentation at OSC & EOS and noted the following:

- We identified seventeen investigations conducted in FY 2016 with either student or employee involvement. Thirteen of 17 investigations were completed within the required 60 days or less, and four went over but the delay was justified and documented.
- We reviewed the authorization access and physical security of the confidential information being retained by the OSC & EOS. The electronic copies were kept in a secured database with restricted access, and the hard copies were kept in a locked file cabinet inside a locked storage room.

Objective 5 Coordination and communication:

Internal Audit reviewed the current process to handle Title IX complaints noting key personnel were identified and their responsibilities defined. The Title IX Coordinator has designated one of the Deputy Coordinators to be in charge of handling Title IX complaints related to students; and has designated another deputy to oversee complaints related to faculty, staff, visitors and contractors. Coordination between the Title IX Coordinator and Deputy Coordinators is on a continuous basis to address and resolve Title IX concerns.

We also verified the University communicates Title IX information to the campus community through online policies/procedures, links to the Title IX webpage and to non-discrimination policy information embedded in regular emails to employees, and student's class syllabi.

CONCLUSION

Based on the audit procedures performed, overall, we determined that the University has established policies and procedures to conform with Title IX requirements related to sexual harassment and sexual violence. Other supportive resources were identified and substantiated. However, an observation was noted on some incoherent references among policies & resources.

Our examination was conducted in accordance with guidelines set forth in the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*. These *Standards* set criteria for internal audit departments in the areas of independence, professional proficiency, scope and performance of audit work, and management of the internal auditing department. UT System policy UTS 129 titled "Internal Audit Activities" requires that we adhere to the *Standards*.

We appreciate the courtesy and cooperation we received from the Title IX Coordinator, Deputy Coordinators, Investigators and Compliance Officer throughout this audit.