

The University of Texas
Rio Grande Valley

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Title IX Compliance Audit

Report No. 17-08

August 2017

Office of Audits & Consulting Services

August 31, 2017

Dr. Guy Bailey, President
The University of Texas Rio Grande Valley
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Harlingen, TX 78550

Dear Dr. Bailey,

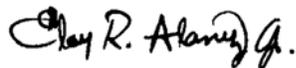
We completed an audit of Title IX Compliance at The University of Texas Rio Grande Valley (UTRGV). This audit was included in the fiscal year 2016 Internal Audit Plan. The objective was to determine whether processes and controls were in place to provide assurance that the University is in compliance with Title IX regulations, specifically focused on assessing the compliance of policies and procedures as it relates to the sexual harassment and sexual violence portion of Title IX.

Our examination was conducted in accordance with guidelines set forth in The University of Texas System's Policies UTS 129 and the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing (Standards)*. The *Standards* set criteria for internal audit departments in the areas of independence, professional proficiency, scope and performance of audit work, and management of internal auditing department. UTS 129 requires that we adhere to the *Standards*.

The recommendations in this report represent, in our judgment, those most likely to provide a greater likelihood that management's objectives are achieved. The recommendations differ in such aspects as difficulty of implementation, urgency, visibility of benefits, and required investments in facilities and equipment, or additional personnel. The varying nature of the recommendations, their implementation costs, and the potential risk impact on operations should be considered in reaching your decision regarding courses of action.

We appreciate the assistance provided by UTRGV's management and other personnel. We hope the information and analyses presented in our report are helpful.

Sincerely,



Eloy R. Alaniz, Jr., CPA, CIA, CISA
Chief Audit Executive

Office of Audits and Consulting Services
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cc: Ms. Karen Adams, Chief Legal Officer
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State Auditor's Office
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EXECUTIVE SUMMARY

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any federal financial assistance must comply with Title IX. The 2016 approved Internal Audit Plan included an audit of **Title IX Compliance** at The University of Texas Rio Grande Valley (UTRGV).

The objective of the audit was to determine whether processes and controls were in place to provide assurance that the University is in compliance with Title IX regulations, specifically focused on assessing the compliance of policies and procedures as it relates to the sexual harassment and sexual violence portion of Title IX. Our audit was limited to the comparison of current UTRGV policies and procedures against the April 2011 & 2015 Dear Colleague Letters issued by the U.S. Department of Education, April 2014 White House Task Force Report & Checklist, and The Department's Title IX regulations, 34 C.F.R. Part 106. We did not review the detailed investigative files of any student Title IX complaints. We also did not report on the governance structure since UTRGV is in the preliminary stages of reviewing its structure.

Based on the procedures performed, process improvements could be made in the following areas:

- Prompt and Equitable Resolution,
- Reporting,
- Deputy Coordinators,
- Notification of Policy & Education and Awareness

Implementation of the recommendations will provide reasonable assurance that the University is operating in compliance with applicable policies, laws, and procedures.

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. In April of 2011, the Department of Education's Office for Civil Rights (OCR) released a *Dear Colleague Letter* with specific "Title IX requirements related to student-on-student sexual harassment, including sexual violence, and explains schools' responsibility to take immediate and effective steps to end sexual harassment and sexual violence". All university campuses are at risk that a student could be a victim of sexual harassment or sexual violence, and OCR has identified many instances of Title IX violations by universities across the nation.

UTRGV has appointed the director of the Office of Institutional Equity, who reports to the chief legal officer, as the Title IX coordinator. The Title IX coordinator is responsible for overseeing UTRGV's investigations and responses to Title IX complaints in coordination with relevant stakeholders; identifying any patterns of systemic problems revealed by such complaints; overseeing campus communication and education efforts regarding Title IX and the procedures for filing complaints alleging sexual violence; and consulting with faculty, staff and students who report sexual misconduct. The director of the Office of Institutional Equity also serves as the:

- Title VII coordinator- Investigates Title VII complaints;
- Equal Employment officer (EEO)/Affirmative Action (AA) officer- Provide guidance and training as well as investigates all EEO/AA complaints;
- ADA coordinator- Investigates all disability discrimination complaints; as well as all accessibility compliance complaints;

The University, in coordination with the Title IX coordinator, has identified and appointed deputy coordinators to assist with Title IX compliance responsibilities. These deputy coordinators include the following: associate dean of students for student rights & responsibilities, assistant director for student rights and responsibilities, Human Resources' employee relations manager, and the senior associate athletic director for student services.

AUDIT OBJECTIVE

The objective of the audit was to determine whether processes and controls were in place to provide assurance that the University is in compliance with Title IX regulations, specifically focused on assessing the compliance of policies and procedures as it relates to the sexual harassment and sexual violence portion of Title IX.

SCOPE OF WORK

The scope of our testing was primarily focused on the processes and operational controls over Title IX compliance activities. Specifically, we reviewed and compared:

- Handbook of Operating Procedures *ADM 03-300 Sexual Harassment and Sexual Misconduct* to the Model Policy provided by UT System’s Office of General Counsel and the White House Task Force Checklist,
- UTRGV administrative procedures to the Department of Education’s Basic Checklist for Title IX requirements,
- UTRGV grievance procedures in place to Title IX Grievance Procedures Checklist.

We did not review the detailed investigative files of any student Title IX complaints. We also did not report on the governance structure since UTRGV is in the preliminary stages of reviewing its structure.

Our examination was conducted in accordance with guidelines set forth in The University of Texas System’s Policies UTS 129 and the Institute of Internal Auditors’ *International Standards for the Professional Practice of Internal Auditing (Standards)*. The *Standards* set criteria for internal audit departments in the areas of independence, professional proficiency, scope and performance of audit work, and management of internal auditing department. UTS 129 requires that we adhere to the *Standards*.

AUDIT RESULTS

Prompt and Equitable Requirements

The U.S. Dept. of Education provides criteria to determine whether an institution’s grievance procedures provide for prompt and equitable resolution of complaints. In order to assess UTRGV’s prompt resolution of Title IX complaints, we reviewed the Title IX case logs for the period of September 1, 2015 to June 22, 2016. Based on our review, we identified a total of 20 out of 58 cases exceeding the 60 day rule.

Office	Cases
SRR	37
OIE	15
SRR/OIE	4
HR	1
OIE/HR	1
Total:	58

Status	# of Cases
Open	15
Closed	5
Total	20

2011 U.S. Dept. of Education – Dear Colleague Letter Requirements
Page 9: As stated in the 2001 Guidance, OCR has identified a number of elements in evaluating whether a school’s grievance procedures provide for prompt and equitable resolution of sexual harassment complaints. These elements also apply to sexual violence complaints because, as explained above, sexual violence is a form of sexual harassment. OCR will review all aspects of a school’s grievance procedures

2015 U.S. Dept. of Education – Dear Colleague Letter Requirements
Page 12: Grievance procedures should specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties should be given periodic status updates. Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint. Whether OCR considers complaint resolutions to be timely, however, will vary depending on the complexity of the investigation and the severity and extent of the harassment.

From the 20, we selected a total of 11 cases to obtain and review justification. We met with the associate dean of students for student rights and responsibilities to review justifications for delays. The Office of Civil Rights (OCR) is very specific as to what constitutes prompt and equitable resolution of sexual harassment complaints. Although complainant & respondent were given periodic case status updates, the justifications for delays may not be sufficient according to OCR standards. Therefore, the University runs the risk that OCR may view some of these cases as not compliant with Title IX.

Recommendation:

1. The Title IX Coordinator should evaluate its case resolution process to ensure timeliness.

Management's Response:

The Chief Legal Officer concurs that justifications for delays must be carefully reviewed to ensure UTRGV is timely completing Title IX investigations or that delays are justified and properly documented.

Implementation Date:

The Chief Legal Officer will review with the associate dean of student for student rights and responsibilities pending justifications within 30 days.

Reporting

The online reporting system used to capture, coordinate and administer the University's Title IX response and compliance requirements is called Maxient, also known as Vaqueros Report It. The system is managed by the associate dean of students for student rights and responsibilities. The system provides centralized reporting and record keeping for all allegations related to student conduct, including Title IX. The system serves as an integral component for coordinating efforts of various departments. Vaqueros Report It allows students, staff, and faculty to report any potential violations of the Student Code of Conduct, student behavioral issues or complaints. The reporting system consists of six categories listed below:

- Academic Dishonesty (faculty only)
- Student Violations
- Sexual Misconduct
- Concerns About a Student
- Complaints
- Residence Life Violations

We noted that the Office of Institutional Equity's website also includes a process to file an internal complaint. The process requires completion of a complaint intake form and delivering the form to the Office of Institutional Equity via email or mail. The intake form requests more information from the complainant than Vaqueros Report It.

Recommendation:

2. The Title IX coordinator and the associate dean of students for student rights and responsibilities should coordinate and implement one process to submit Title IX complaints. The Vaqueros Report It could be modified to incorporate all information required for initial case intake with adequate consideration of privacy for the investigations.

Management’s Response:

The Chief Legal Officer agrees with this recommendation, and in fact implementation has been ongoing since fall 2016. Working with the Associate Dean for Student Rights and Responsibilities, the Office of Institutional Equity has converted its complaint intake form to an online version available on Vaqueros Report It. The OIE is currently using Maxient for intake, coordination, and administration of complaints made to the office, including Title IX complaints. OIE continues work with the Associate Dean for Student Rights and Responsibilities to tailor tracking and reporting functions in Maxient to OIE needs.

Implementation Date:

Intake through Maxient implemented December 2016. Assessment and improvement of tracking and reporting functions for OIE/Title IX purposes is ongoing.

Deputy Coordinators

The University has appointed four deputy coordinators to assist with Title IX compliance efforts as follows:

Office	Position Title
Student Rights and Responsibilities (SRR)	<ul style="list-style-type: none"> • associate dean for student rights and responsibilities • assistant director for student rights and responsibilities
Human Resources	<ul style="list-style-type: none"> • employee relations manager
Athletics	<ul style="list-style-type: none"> • senior associate director for student services / SWA.

Title IX deputies receive and investigate Title IX complaints; respond to inquiries from students, staff, and faculty regarding their rights and responsibilities; and assist the Title IX coordinator in oversight and implementation of Title IX compliance. Currently, the School of Medicine has not assigned a deputy coordinator.

Recommendation:

3. The Title IX coordinator should coordinate efforts with the School of Medicine to identify and appoint a deputy coordinator for the School of Medicine.

Management's Response:

The Chief Legal Officer agrees the School of Medicine should have an individual appointed to assist the Title IX Coordinator, yet offers the recommendation of the Title IX Coordinator to create a different, suitable role and title.

The Title IX Coordinator has been reviewing and standardizing the roles and responsibilities of the Title IX responders, including evaluating different titles for different roles and responsibilities. In that the UTRGV Dean of Students has the primary authority and responsibility for the investigation and administration of student discipline (including students in the SOM), an individual who conducts investigations of Title IX complaints in the SOM is not needed. Instead, a "Reporting Liaison," a Title IX-trained individual who can perform complaint intake, respond to inquiries, and assist with identifying needs for training (but has no investigation responsibility) is more appropriate. The Associate Dean for Student Affairs in the SOM would appear to be the appropriate individual to perform the functions of a Title IX Reporting Liaison for the SOM. The Title IX Coordinator will confer with the interim Dean of the SOM to confirm the Associate Dean for Student Affairs in the SOM is the appropriate appointment.

Implementation Date:

Implemented; Associate Dean for Student Affairs in the SOM has been appointed at a Title IX Reporting Liaison.

Notification of Policy/Education and Prevention

Employee Training

All employees of UTRGV have an obligation to report alleged incidents of sexual harassment and sexual violence. Employees receive Title IX training through the required institutional training performed by the Institutional Compliance Office 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.

The Title IX coordinator in coordination with campus partners have adequately trained employees. As of November 8, 2016, 7,888 out of 8,236 employees have been trained. However, based on our interview with campus compliance manager, we determined that affiliated individuals who provide services for UTRGV and identified as "non-paid employees" on the Human Resources ORACLE ERP System (those with special assignment staff/persons of interest) are not scheduled to complete the mandated compliance training including "A

Workplace Free of Discrimination and Sexual Harassment”. There are currently a total of 80 non-paid employees at UTRGV.

Recommendation:

4. The Title IX coordinator should ensure that all employees, including affiliated individuals with job and position titles at UTRGV be provided with Title IX training. The Title IX coordinator should coordinate with the compliance managers and with Human Resources to identify and train these non-paid employees.

Management’s Response:

The Chief Legal Officer agrees that individuals affiliated with UTRGV as either special assignment staff or persons of interest (affiliated individuals with job and position titles at UTRGV) should be provided Title IX training, particularly since ADM 03-300 Sexual Harassment and Sexual Misconduct applies to all individuals affiliated with UTRGV regardless of employment status, and encourages all individuals to report violations of the policy.

The Institutional Compliance Office is charged with managing the rollout of the general compliance online modules, which includes the annual Non-Discrimination awareness session and includes the Title IX Responsible Employee module. The Title IX Coordinator has been working with the Institutional Compliance Office to expand the target population for training to include special assignment staff and persons of interest. At this time, a determination as to the best method for identifying and then providing training for these individuals affiliated with UTRGV is ongoing.

Implementation Date:

Ongoing, no later than AY 2018.

Student Admissions and Orientation

It is mandatory for all entering and transfer students to attend New Student Orientation. It is a two day orientation coordinated by the Department of Recruitment and Scholarships. It is an interactive welcome event that kicks off the fall semester before the first class day. During orientation, students are introduced to a series of presentations from various departments. The Office of Student Rights & Responsibilities and the Office of Institutional Equity provide Title IX education and awareness.

Based on our interview with the Associate Director of the Language Institute, individuals that participate in language institute courses/instruction are not considered UTRGV students since they do not pay student fees and are not required to take part in the two day New Student Orientation and Vaquero Roundup.

In addition, it is not mandatory for new medical students to attend this session. There was a Graduate Medical Education Orientation held in June 2016 where basic training was provided by the Office of Institutional Equity for basic understanding of sexual harassment. This was a one-time special summer event and not part of a formal process.

We also identified areas where the dissemination of the sexual harassment policy, notice of nondiscrimination and Title IX awareness were not evident to program prospects. These areas included the websites of the Language Institute, the Continuing Education Programs, and the UTRGV undergraduate and graduate admissions application process and the UTRGV School of Medicine admissions application process.

Recommendation:

5. The Title IX Coordinator should incorporate the notice of nondiscrimination into the websites of UTRGV's admissions application process, School of Medicine's admissions application process, the Language Institute, and the Continuing Education Programs at each College. Title IX awareness and education should be provided during the Language Institute's program orientation as well as programs/areas designed for personal enrichment and professional development.

Management's Response:

While a notice of nondiscrimination already is included in UTRGV catalogs, the Chief Legal Officer agrees with the recommendation to include the nondiscrimination statement in the website information for UTRGV admissions (including School of Medicine admissions), the Language Institute admissions, and Continuing Education Programs admissions. The Office of Institutional Equity already has taken steps to include the nondiscrimination statement on websites for graduate admissions, undergraduate admissions, Continuing Education Programs, and the Language Institution admissions.

With respect to Title IX awareness and education for Continuing Education Programs, the Chief Legal Officer and Title IX Coordinator believe online or in-person training for these programs will not be feasible, particularly since the current Title IX training offered may actually be longer than some of the education programs themselves, and the training may not lend itself to the format of some education programs. The Chief Legal Officer concurs with the recommendation of the Title IX Coordinator that including Title IX informational brochures in continuing-education-program registration materials will sufficiently address Title IX awareness and education obligations.

With respect to Title IX awareness and education for Language Institute programs, the Language Institute has expressed concerns regarding the feasibility of online or in-person training due to time constraints and, more importantly, the need for training to be presented entirely in Spanish. As with the Continuing Education Programs, the Chief Legal Officer concurs with the recommendation of the Title IX Coordinator that providing Spanish-

language Title IX informational brochures to participants in Language Institute programs will sufficiently address Title IX awareness and education obligations.

Implementation Date:

Nondiscrimination statements have been included in undergraduate and graduate admissions websites, including the SOM, and in catalogs. Inclusion of Title IX brochures in Continuing Education Program registration packets is anticipated in August 2017, and the distribution of Spanish-language brochures with respect to the Language Institute programs is anticipated in September 2017.

CONCLUSION

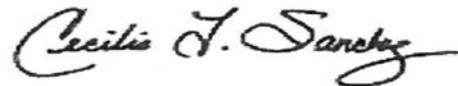
Based on the procedures performed, process improvements could be made in the following areas:

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- Reporting,
- Deputy Coordinators,
- Notification of Policy & Education and Awareness

Implementation of the recommendations will provide reasonable assurance that the University is operating in compliance with applicable policies, laws, and procedures.



Norma Ramos, CIA, CGAP
Director



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