



# Implementation of State Auditor's Recommendations

Audits Released in January 2007 Through December 2008

Special Report to  
*Assembly Budget Subcommittee #2—Education Finance*

February 2009 Report 2009-406 A2



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STATE AUDITOR

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February 24, 2009

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The Governor of California  
Members of the Legislature  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The Bureau of State Audits presents its special report for the Assembly Budget Subcommittee No. 2—Education Finance. This report summarizes the audits and investigations we issued during the previous two years that are within this subcommittee's purview. This report includes the major findings and recommendations, along with the corrective actions auditees reportedly have taken to implement our recommendations. To facilitate the use of the report we have included a table that summarizes the status of each agency's implementation efforts based on its most recent response.

This information is also available in a special report that is organized by policy areas that generally correspond to the Assembly and Senate standing committees. This special policy area report includes an appendix that identifies monetary benefits that auditees could realize if they implemented our recommendations, and is available on our Web site at [www.bsa.ca.gov](http://www.bsa.ca.gov). Finally, we notify auditees of the release of these special reports.

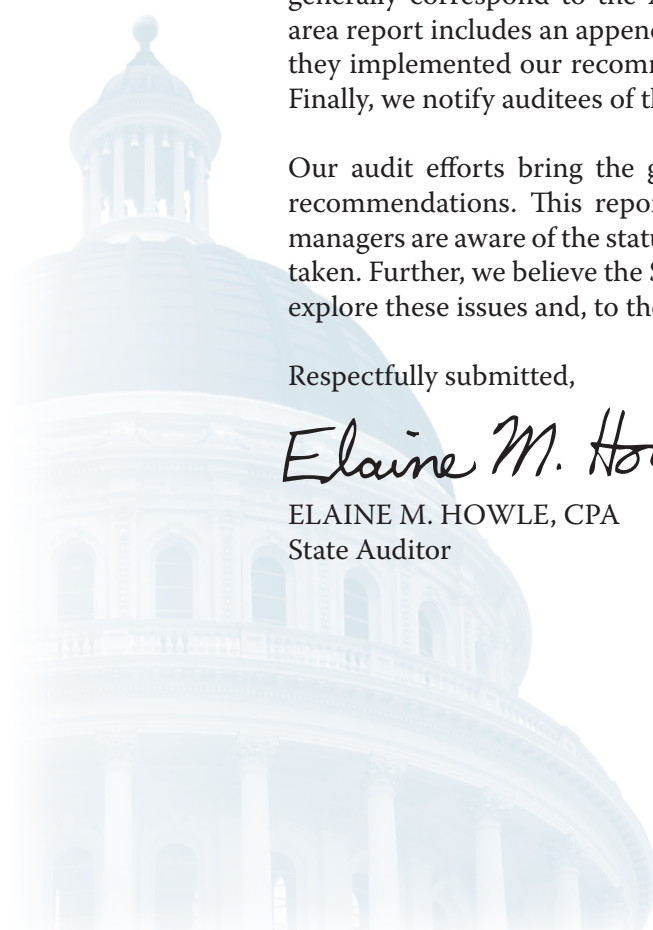
Our audit efforts bring the greatest returns when the auditee acts upon our findings and recommendations. This report is one vehicle to ensure that the State's policy makers and managers are aware of the status of corrective action agencies and departments report they have taken. Further, we believe the State's budget process is a good opportunity for the Legislature to explore these issues and, to the extent necessary, reinforce the need for corrective action.

Respectfully submitted,



*Elaine M. Howle*

ELAINE M. HOWLE, CPA  
State Auditor



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## Introduction

This report summarizes the major findings and recommendations from audit and investigative reports we issued from January 2007 through December 2008, that relate to agencies and departments under the purview of the Assembly Budget Subcommittee No. 2—Education Finance. The purpose of this report is to identify what actions, if any, these auditees have taken in response to our findings and recommendations. We have placed this symbol  in the margin of the auditee action to identify areas of concern or issues that we believe an auditee has not adequately addressed.

For this report, we have relied upon periodic written responses prepared by auditees to determine whether corrective action has been taken. The Bureau of State Audits' (bureau) policy requests that the auditee provides a written response to the audit findings and recommendations before the audit report is initially issued publicly. As a follow-up, state law requires the auditee to respond at least three times subsequently: at 60 days, six months, and one year after the public release of the audit report. However, we may request an auditee to provide a response beyond one year or we may initiate a follow-up audit if deemed necessary.

We report all instances of substantiated improper governmental activities resulting from our investigative activities to the cognizant state department for corrective action. These departments are required to report the status of their corrective actions every 30 days until all such actions are complete.

Unless otherwise noted, we have not performed any type of review or validation of the corrective actions reported by the auditees. All corrective actions noted in this report were based on responses received by our office as of January 2009. The table below summarizes the number of recommendations along with the status of each agency's implementation efforts based on its most recent response related to audit reports the office issued from January 2007 through December 2008. Because an audit report and subsequent recommendations may crossover several departments, they may be accounted for on this table more than one time. For instance, the Crime Statistics Report, 2006-032, is reflected under Community Colleges, California State University, University of California, and California Postsecondary Education Commission.

	INITIAL RESPONSE	FOLLOW-UP RESPONSE			STATUS OF RECOMMENDATION				PAGE NUMBERS
		60-DAY	SIX-MONTH	ONE-YEAR	FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	PENDING	NO ACTION TAKEN	
<b>Education Finance</b>									
<b>Community Colleges</b>									
Crime Statistics Report 2006-032				●	4	0	0	0	3
College Textbooks Affordability Report 2007-116		●			0	1	4	0	11
<b>California Postsecondary Education Commission</b>									
Crime Statistics Report 2006-032				●	1	0	0	0	3
<b>California State University</b>									
Crime Statistics Report 2006-032				●	6	0	0	0	3
Investigations Report I2007-2 [I2007-0671]				●	0	1	0	0	19
CSU Compensation Report 2007-102.1				●	0	5	1	0	21
CSU Hiring Practices Report 2007-102.2				●	0	4	1	0	27
College Textbooks Affordability Report 2007-116		●			1	0	5	0	11
<b>Department of Education</b>									
Home-to-School Transportation Report 2006-109				●	0	0	0	1	35
Special Education Hearings Report 2008-109	●				0	1	2	0	37
<b>University of California</b>									
Crime Statistics Report 2006-032				●	8	0	0	0	3
College Textbooks Affordability Report 2007-116		●			0	0	2	3	11

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# California's Postsecondary Educational Institutions

## Stricter Controls and Greater Oversight Would Increase the Accuracy of Crime Statistics Reporting

REPORT NUMBER 2006-032, JANUARY 2007

*Responses from those of the institutions we visited and the California Postsecondary Education Commission as of January 2008; University of California—Los Angeles, as of September 2008; and California State University—Long Beach and American River College as of November 2008*

Chapter 804, Statutes of 2002, which added Section 67382 to the California Education Code (code section), requires us to report to the Legislature the results of our audit of not less than six California postsecondary educational institutions that receive federal student aid. We were also directed to evaluate the accuracy of the institutions' statistics and the procedures they use to identify, gather, and track data for reporting, publishing, and disseminating accurate crime statistics in compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). We evaluated compliance with the Clery Act at American River College (American River); California State University, Long Beach (Long Beach); Leland Stanford Junior University (Stanford); University of California, Berkeley (Berkeley); University of California, Los Angeles (UCLA); and University of Southern California (USC).

The code section also requires the California Postsecondary Education Commission (commission) to provide on its Web site a link to the Web site of each California postsecondary institution that includes crime statistics information.

### **Finding #1: Failure to correctly classify specific incidents of potentially reportable crime types led institutions to incorrectly report the number of, or miscategorize, crimes.**

The Clery Act and federal regulations require eligible postsecondary educational institutions (institutions) to compile crime statistics in accordance with the definitions established by the Uniform Crime Reporting Program of the Federal Bureau of Investigation (FBI). Definitions for crimes reportable under the Clery Act can be found in both federal regulations and the FBI's *Uniform Crime Reporting Handbook* (UCR). If the U.S. Department of Education (Education) finds that an institution has violated the Clery Act by substantially misrepresenting the number, locations, or nature of reported crimes, it may impose a civil penalty of up to \$27,500 for each violation or misrepresentation. Additionally, Education may suspend or terminate the institution's eligibility status for federal student aid funding.

The Clery Act requires institutions to compile crime statistics in accordance with the definitions established in the UCR. Although state definitions of crimes often do not precisely match the crimes described in the UCR, there is no comprehensive list converting crimes

### **Audit Highlights . . .**

*Our review of California's postsecondary educational institutions' compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), revealed the following:*

- » *One institution did not correctly convert crimes defined in California law to crimes the Clery Act requires to be reported in the annual security report.*
- » *Institutions did not review some potentially reportable crimes to determine if they are reportable under the Clery Act.*
- » *Institutions did not correctly identify all reportable locations.*
- » *Institutions have not established a written policy or procedure for some of the items described in their annual reports.*
- » *The California Postsecondary Education Commission does not ensure that the links that it provides lead to institutions' statistics.*



defined in California law to those reportable under the Clery Act, or identifying crimes that cannot be uniformly converted. Consequently, institutions are responsible for ensuring that they include in their annual reports all reportable crimes and correctly classify crimes and their locations in accordance with the definitions of crimes reportable under the Clery Act. One of the six institutions we reviewed did not correctly convert crimes defined in California law to crimes the Clery Act requires institutions to report in their annual reports, and four institutions either did not review or did not correctly report some crimes in potentially reportable categories. When institutions fail to meet these requirements, they can distort the level of crime occurring on the campuses.

To improve the accuracy and completeness of their data, Berkeley, Long Beach, Stanford, UCLA, and USC should establish procedures to identify crimes defined in California law that cannot be directly converted to reportable crimes and take additional steps to determine if a crime is reportable. Berkeley should also ensure that crimes in California law are correctly converted to crimes the Clery Act requires institutions to report.

***University of California—Berkeley’s Action: Corrective action taken.***

Berkeley indicates that it has developed a procedure to ensure that the crimes identified by the audit as incorrectly included are no longer reported. In addition, Berkeley states that it has created a spreadsheet documenting the review of several types of crimes defined in California law to convert them to Clery Act defined crimes.

***California State University—Long Beach’s Action: Corrective action taken.***

Long Beach indicates that it has altered its crime reporting software to identify Clery Act reportable crimes.

***Leland Stanford Junior University’s Action: Corrective action taken.***

Stanford indicates that for crimes that do not have a clear counterpart, the Clery coordinator reviews the incident report and consults with the campus director of public safety and Education as necessary.

***University of California—Los Angeles’ Action: Corrective action taken.***

UCLA has conducted training and established a single method of coding crime reports to ensure consistency. The records manager conducts monthly audits of crime coding to ensure consistency and accuracy. In addition, the records manager reviews data entered into the records management system and conducts audits of the information on a monthly basis. The analyst and records manager determine the appropriate classification for questionable categories. The analyst reviews the actual crime report, as opposed to the information entered into the record management system, for all Clery reportable crimes, and has created a reference sheet to correctly count alcohol-related crimes. Finally, UCLA has obtained a software upgrade that will enable its record management system to automatically create its Clery report, and continues to work on data conversion procedures necessary to do so.

***University of Southern California’s Action: Pending.***

USC indicates that it will obtain information from the Los Angeles Police Department to properly categorize these incidents.

**Finding #2: Incomplete data led some institutions to underreport crimes.**

Each institution we reviewed used some form of an electronic system to record and track crimes. However, a lack of controls in these systems allowed inaccurate or incomplete information to be entered, and led some institutions to incorrectly report their crime statistics. For example, at Stanford we identified crimes that either were not entered into the system or were entered with an incorrect year. In addition, at UCLA we found instances when the type of crime was not entered in the crime-tracking

system for Clery Act reportable crimes, and UCLA subsequently assumed they were not criminal incidents. When institutions do not identify all reportable crimes or enter erroneous information for crimes, they risk misrepresenting the number of crimes occurring on their campuses.

To improve the accuracy and completeness of their data American River, Berkeley, Stanford, and UCLA should establish procedures to verify the integrity of data in their electronic crime-tracking systems.

***American River College's Action: Corrective action taken.***

American River indicates that it is now using an automated records management system and ensures the integrity of its data through the use of a separate backup server.

***University of California—Berkeley's Action: Corrective action taken.***

Berkeley now conducts a quarterly “gap check” to identify any crimes that have not been entered into the system. In addition, the records unit supervisor maintains documentation regarding any missing case numbers (for example, cancelled case reports).

***Leland Stanford Junior University's Action: Corrective action taken.***

Stanford states that its records supervisor conducts periodic audits of the crime tracking systems to ensure the integrity of the data in the system.

***University of California—Los Angeles' Action: Corrective action taken.***

UCLA states that it now has procedures in place to regularly review the sequential numbering of reports and other critical information—including the incident type, date and location of occurrence, and penal code—to ensure that all crimes are included and properly categorized. Further, weekly checks ensure staff account for all reports that are issued a report number. To ensure consistency, a single staff member now does all report coding and the records manager reviews all reports.

**Finding #3: Failing to collect enough information from campus security authorities and local police agencies can affect crime statistics.**

The Clery Act requires institutions to collect crime statistics from campus security authorities and local police agencies. The six institutions we reviewed collect information from various campus security authorities throughout the institutions at least annually. Four of these institutions also request necessary details. However, three institutions did not retain complete records of their requests and responses from campus security authorities.

Because local police agencies may be responsible for responding to certain types of crimes or patrolling designated noncampus and public property areas, institutions must also request information that allows them to determine which additional crimes they should include in their annual reports. Two institutions we reviewed either did not maintain original documents provided by local police agencies or documentation of which crimes they included in their annual reports. Although all incidents reported to campus police departments and local police agencies should be considered, institutions should try to obtain detailed information on every incident reported to avoid over- or under-reporting. Without adequate information, an institution could under-report campus crime because it cannot confirm that it is already aware of the crime, or it could over-report as a result of counting an incident more than once.

To improve the accuracy and completeness of their data, we recommended that American River, Long Beach, Stanford, and USC establish procedures to obtain and retain sufficient information from campus security authorities and local police agencies to determine the nature, dates, and locations of crimes reported by these entities. We also recommended that USC establish procedures to identify all campus security authorities and collect information directly from each source, and that it develop

a process to compare the dates that crimes occurred as recorded by the institution to the dates recorded by local police agencies to minimize the potential for duplicate reporting of crimes. Lastly we recommended that Long Beach and USC retain adequate documentation that specifically identifies incidents they include in their annual reports.

***American River College's Action: Corrective action taken.***

American River indicates that it now sends letters to campus security authorities that explain their role and provide instructions for submitting the requested information. In addition, campus security authorities are provided forms that identify required information and include simple definitions of crimes to help enhance accurate reporting. Further, American River makes all requests for information via e-mail to help document compliance.

***California State University—Long Beach's Action: Corrective action taken.***

Long Beach indicates that to provide a basis for verification of statistics in its annual report it has revised its process to collect and retain incident information, and has established procedures to ensure data is gathered and retained from local police agencies and campus security authorities for the proper period of time.

***Leland Stanford Junior University's Action: Corrective action taken.***

Stanford states that its Clery coordinator sent requests for information to all campus security authorities and required responses even if the authority had no crimes to report.

***University of Southern California's Action: Partial corrective action taken.***

➔ USC states that it maintains original documentation provided by the Los Angeles Police Department. USC did not address our concern regarding developing a process to compare the dates in its records that crimes occurred to the dates recorded by local police agencies to minimize the potential for duplicate reporting of crimes. USC indicates that it revised its list of campus security authorities and will create an incident report form for them to use.

**Finding #4: Institutions that lack adequate procedures for determining reportable locations risk confusion and inaccurate reporting.**

The Clery Act requires each institution to report statistics for crimes committed in certain geographic locations associated with the campus. Although Education's The Handbook for Campus Crime Reporting (Education handbook), which offers additional guidance on compliance with the Clery Act, provides specific examples of how various locations are to be classified, five of the six institutions we reviewed did not correctly identify all reportable locations. Some institutions did not properly identify public property for all years reviewed; incorrectly classified property meeting the definition of a campus location; did not differentiate in their annual reports between crimes occurring on campus and those occurring on certain public properties, such as streets adjacent to the institution; and failed to identify all noncampus locations subject to reporting. Although each campus is unique, it is important that institutions consistently apply the criteria established by Education to accurately classify reportable crimes.

To improve the accuracy and completeness of their data Berkeley, Long Beach, Stanford, UCLA, and USC should establish procedures to accurately identify all campus, noncampus, and public property locations and report all associated crimes.

***University of California—Berkeley's Action: Corrective action taken.***

Berkeley states that as described in its response to the audit, it has already complied with this recommendation by using the Education handbook definition to compile statistics for two of the three years reported in its 2006 annual report.

***California State University—Long Beach’s Action: Corrective action taken.***

Long Beach states that it has altered its definition of reportable locations to match that of the Education handbook in its 2006 annual report.

***Leland Stanford Junior University’s Action: Partial corrective action taken.***

Stanford indicated that it would contact Education for guidance on the proper designation of certain properties, but did not indicate it had yet done so in its one-year response. Further, Stanford will include the Stanford Hospital and the Stanford Linear Accelerator Center as campus locations; and will include the Stanford Sierra Camp and Boathouse as noncampus locations. Finally, its Clery coordinator received a list of Stanford properties to determine if all campus and noncampus locations have been properly identified.

***University of California—Los Angeles’ Action: Corrective action taken.***

UCLA indicates that it now obtains a complete list of property from its Space Management Division annually, and a complete list of Greek housing from the fraternity and sorority relations staff. Further, it has reviewed its property and redrawn the campus boundaries for the purpose of identifying reportable locations. It also stated that the crime analyst ensures all locations are properly identified and associated crimes are accurately reported.

***University of Southern California’s Action: Partial corrective action taken.***

USC indicates that it has spent time to educate staff and review local police reports to improve reporting accuracy of the crimes reported by local police. It indicates that it also expanded its review process to appropriately classify new properties and those whose use changes. USC did not address our concerns regarding the correction of any incorrect property classifications where the use of the property has not changed.

**Finding #5: The statistics institutions report to Education do not always match the statistics in their annual security reports.**

In addition to disclosing crime statistics in their annual reports, institutions must submit the information to Education, using a form on Education’s Web site. Although we would expect these statistics to mirror one another, five institutions had discrepancies between the number of crimes published in their annual reports and those they submitted to Education. Among the causes of the discrepancies were institutions’ errors when completing Education’s online form, errors in the institutions’ annual reports, the discovery of misplaced information, and corrections institutions made after obtaining additional information. Errors made in reporting to Education and when preparing annual reports distort the actual levels of crime experienced by the institutions and result in unreliable resources for current and prospective students.

To improve the accuracy and completeness of their data, we recommended that Berkeley, Long Beach, Stanford, UCLA, and USC establish procedures to minimize data entry errors in their annual reports and in their annual submissions to Education.

***University of California—Berkeley’s Action: Corrective action taken.***

Berkeley has created a checklist to ensure that all data submitted by campus security authorities is correctly included in both its annual report and the data it submits to Education.

***California State University—Long Beach’s Action: Corrective action taken.***

Long Beach states that it has established written procedures to minimize data entry errors and has assigned responsibility for these tasks to a single position. It also indicates that it reviewed randomly selected items to ensure accuracy and had the reported statistics reviewed by no less than two personnel.

***Leland Stanford Junior University's Action: Corrective action taken.***

Stanford states that its Clery coordinator and records supervisor cross check data entries prior to the submission of statistics.

***University of California—Los Angeles' Action: Corrective action taken.***

UCLA states that by addressing and correcting data integrity issues the concerns regarding the statistics reported to Education have been corrected. In addition, both the crime analyst and information systems manager review all reported Clery statistics for data entry errors before they are finalized.

***University of Southern California's Action: Corrective action taken.***

USC indicates that it continues to review its statistics to minimize the potential for the duplicate reporting of crimes.

**Finding #6: Some Institutions did not comply with the Clery Act requirements to disclose campus security policies.**

The Clery Act requires that each institution disclose its current campus security policies. While all six institutions we reviewed made good-faith efforts to fully disclose these policies, two institutions did not fully comply in their disclosures. Although one institution disclosed information for all seven of the categories we reviewed, its sexual assault information did not include all the components required by the Clery Act. Complying with the Clery Act provides students and employees at these institutions with important information concerning their safety. In addition, California Education Code, Section 67382(c), suggests that institutions establish and publicize a policy that allows victims or witnesses to report crimes to the institutions' police agencies or to a specified campus security authority on a voluntary, confidential, or anonymous basis, and federal regulations require institutions offering confidential or anonymous reporting to disclose its availability in their annual reports. Unless institutions establish and inform students and staff of the availability of an anonymous reporting system, they may not have a clear picture of the degree of sexual violence occurring on their campus and surrounding communities.

To ensure compliance with the Clery Act, USC should enhance the disclosures regarding sexual assaults in its annual report to fully meet statutory requirements. Long Beach should establish procedures to ensure adequate disclosure of the availability of anonymous and confidential reporting to its campus community.

***California State University—Long Beach's Action: Corrective action taken.***

Long Beach states that it has developed a procedure to ensure adequate disclosure of the availability of anonymous reporting.

***University of Southern California's Action: Corrective action taken.***

USC stated that it amended its sexual assault policy contained in its annual security report to meet statutory requirements.

**Finding #7: Some institutions have not established all the policies or procedures described by their annual reports.**

A major component of Clery Act compliance is the disclosure of policy statements in the annual report. The Clery Act outlines numerous campus security policies that institutions must disclose, and the Education handbook provides guidance on the minimum requirements for specific information that the report must include. However, the policies and procedures described in the annual report must also accurately reflect the institution's unique security policies, procedures, and practices, and if the institution

does not have a particular policy or procedure, it must disclose that fact. Although the institutions we reviewed generally disclosed the information required by the Clery Act in their annual reports, most campuses were unable to provide us with the policies and procedures to support some of the disclosures they had made in those reports. In addition, the Education handbook states that to keep the campus community informed about safety and security issues, an institution must alert the campus community of reportable crimes considered an ongoing threat to students and employees in a manner that is timely and will aid in the prevention of similar crimes. Because of its potential to prevent crimes, each institution is required to have a policy specifying how it will issue these warnings. Because the Clery Act does not define timely, we expected institutions to have established their own definitions. However, two institutions had not established guidelines or time frames for reporting incidents to the campus community.

To ensure compliance with the Clery Act, we recommended that American River, Long Beach, Stanford, and USC establish comprehensive departmental policies that support disclosures made in their annual reports, and establish a policy to define timely warnings and establish procedures to ensure that they provide timely warnings when threats to campus safety occur.

***American River College's Action: Corrective action taken.***

American River updated its general orders, and included policies and procedures supporting required disclosures.

***California State University—Long Beach's Action: Corrective action taken.***

Long Beach states that it has developed policies and procedures that support the disclosures made in the annual report and has integrated them into the campus police rules and regulations manual, including a policy to define timely warnings.

***Leland Stanford Junior University's Action: Partial corrective action taken.***

Stanford states that it refined its written policy regarding timely warnings, and formed a task force to review, improve, and formalize its existing policies and procedures.

***University of Southern California's Action: Partial corrective action taken.***

USC states that it is updating its policy manual and expects to complete this process in 2009. In addition, USC states that it has developed a new timely warning policy and has amended its internal timely warning procedures.

**Finding #8: One institution did not notify all current and prospective students and employees of the availability of its annual report.**

Federal regulations require institutions to distribute their annual reports to all enrolled students and current employees by October 1 of each year through appropriate publications or mailings. In addition, institutions must notify prospective students and employees of the availability of their annual reports. American River did not distribute its annual report or satisfactorily notify students and employees of its availability during the period we audited. The annual report is only effective in educating students and staff about crime on campus and on the institution's security policies and procedures when students and staff are aware of its availability.

To ensure compliance with the Clery Act, American River should establish procedures to ensure that the campus community is informed of the availability of the annual report.

***American River College's Action: Corrective action taken.***

American River indicates that it now uses a variety of documents to notify students, staff, and faculty of the availability of its annual report.

**Finding #9: The commission does not ensure a link exists to institutions' crime statistics.**

State law requires the commission to provide a link to the Web site of each California institution containing crime statistics information. To fulfill this requirement, the commission provides links on its Web site to connect users to the selected institution's summary information on Education's Web site. The commission believes that this ensures uniform reporting of crime statistics, provides interested persons with a common reporting format for comparison purposes, reduces the reporting burden on institutions, and makes the best use of the commission's scarce resources. However, the commission was unaware that five institutions listed on its Web site had not submitted crime statistics to Education's Web site. Although the commission has procedures in place to verify that it includes a valid link to Education's summary information for each institution, it does not ensure that the summary page contains a link to a valid crime statistics report. The commission stated that in the future it will identify institutions whose pages on Education's Web site do not contain the required crime statistics information and will determine each institution's status.

To ensure that its Web site contains a link to all institutions' crime statistics, the commission should continue with its plan to test the validity of its links.

***California Postsecondary Education Commission's Action: Corrective action taken.***

The commission indicates that it has developed a program to accomplish this task, and conducts verification checks monthly.

# Affordability of College Textbooks

## Textbook Prices Have Risen Significantly in the Last Four Years, but Some Strategies May Help to Control These Costs for Students

REPORT NUMBER 2007-116, AUGUST 2008

*Responses from the University of California and the California State University as of October 2008, and the California Community Colleges as of December 2008*

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the affordability of college textbooks in California's public universities and colleges. As part of our audit, we were to evaluate the textbook industry and its participants—including faculty, students, and others involved with the three public postsecondary educational systems in the State—to determine how the participants' respective roles affect textbook prices. In addition, the audit committee asked that we survey a sample of publishers to ascertain as much as possible about the methods that publishers use to set prices and market textbooks, including any incentives offered and the publishers' decisions about textbook packaging and the need for revisions. Further, we were asked to determine and evaluate how the three postsecondary educational systems identify, evaluate, select, and approve textbooks for courses on their campuses. The audit committee also asked us to identify and evaluate the success of the processes and practices that the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) use to keep the costs of textbooks affordable.

### **Finding #1: Publishers have increased the prices they charge retailers, and bookstores add their markup to those prices.**

A publisher sells a textbook to a campus bookstore at an invoice price, and then the bookstore adds a markup to that invoice price, arriving at a retail price that will enable the bookstore to at least cover its operating costs. To identify which participant in this process—the publisher or the campus bookstore—is contributing more to the overall increase in the textbook prices students have to pay, we reviewed historical invoice prices and retail prices for a sample of three textbooks adopted by faculty at each of the nine campuses for use during academic years from 2004–05 through 2007–08. We found that the nine campus bookstores we reviewed generally apply a consistent percentage markup to the invoice price for each textbook they sell. Therefore, bookstores' retail prices are increasing proportionately to the increases in the publishers' invoice prices. Ultimately, then, the increase in the publishers' invoice prices is driving the rise in the bookstores' retail prices, which leads to increasing textbook costs for students.

The markups campus bookstores apply to publishers' invoice prices for textbooks range from a low of 25 percent to a high of 43 percent at the nine campuses we reviewed. Campus bookstores generally use the proceeds resulting from these markups to cover their operating costs and, in some cases, to support campus activities and organizations.

### **Audit Highlights . . .**

*Our review of the affordability of college textbooks at the University of California (UC), California State University (CSU), and the California Community Colleges (community colleges) systems revealed the following:*

- » *Increases in textbook prices have significantly outpaced median household income, which makes it more likely that some students will forgo or delay attending college because of the financial burden that postsecondary education imposes.*
- » *Students can somewhat offset rising textbook costs by purchasing used books or purchasing textbooks from third parties that advertise their textbooks with on-line retailers.*
- » *Several key players in the textbook industry believe the used textbook market drives up the cost of new textbooks and may play a role in how frequently publishers issue new editions.*
- » *Of 23 textbooks we reviewed, publishers released a new edition about every four years on average; however, many of the deans, department chairs, and faculty members that we interviewed stated that revisions to textbooks are minimal and are not always warranted.*
- » *Even though bookstore managers claim that timely textbook adoptions enable them to pay students more for used textbooks and allow them to procure more used books to sell in the next term, the majority of faculty submit textbook adoptions after the initial deadline.*

*continued on next page . . .*



- » *Campus bookstores have implemented several strategies to reduce students' textbook costs; however they have not consistently employed them.*
- » *The community colleges and CSU, with some participation from UC, have explored possible solutions for the rising costs of textbooks, including open educational resources and the Digital Marketplace, both of which offer means of content delivery that differ from that of traditional textbooks.*

Moreover, the markups that campus bookstores add to the publishers' invoice prices do not only apply to new books; they also apply to used textbooks the campus bookstores purchase from wholesalers or buyback from students at the end of an academic term. Generally, campus bookstores sell a used textbook at 75 percent of the new version's retail price, even though the price students receive at buyback is below that.

After the bookstores cover the operating costs with the proceeds resulting from their markups, they may contribute a portion of their revenues to campus functions, such as the operations of the associated students organization. For instance, in fiscal year 2006–07, the auxiliary that manages the bookstore and food services operation at one campus we reviewed made a contribution of \$100,000 to the university to support various student activities. However, in that same fiscal year the auxiliary's food services operation reported a \$600,000 loss, which the auxiliary covered using the \$1.6 million profit the campus bookstore earned over the same period. Although we recognize that these monetary contributions are important to some campus functions, such as student activities and dining services, it is difficult to assess whether students value these services enough to warrant the markup on textbooks. Given that some students may not want to fund these types of activities by paying higher textbook costs, it seems reasonable for campuses to solicit student feedback on whether they support using the revenues from bookstores to fund various student activities.

To increase awareness and transparency about the reasons campus bookstores add markups to publishers' invoice prices for textbooks, we recommended that UC, CSU, and the community colleges require campuses to reevaluate bookstores' pricing policies to ensure that markups are not higher than necessary to support bookstore operations. If the campuses determine that bookstore profits are needed to fund other campus activities, the campuses should seek input from students as necessary to determine whether such purposes are warranted and supported by the student body, particularly when higher textbook prices result. Further, campuses should direct bookstores to publicly disclose on an annual basis any amounts they use for purposes that do not relate to bookstore operations, such as contributions they make to campus organizations and activities.

***UC's Action: None.***

UC did not address these recommendations in its 60-day response to our audit report. However, UC acknowledged that it is still in the process of developing more specific action plans for implementing many of the recommendations, which it plans to include in its six-month response to our audit report.

***CSU's Action: Pending.***

According to CSU, it is in the process of determining the best methods to use to evaluate the competing factors that lead to textbook pricing. It asserts that campuses will evaluate the existing contracts they have with bookstores. Further, CSU states that it is exploring ways to seek input, beyond the elected student representatives, from the general student body when bookstore profits are used to fund other campus activities, and whether

such purposes, particularly if they result in higher textbook prices, are warranted. In addition, CSU reports that it is in the process of determining whether there is a more explicit mechanism, other than the annual disclosure of net income from bookstore operations contained in the campus auxiliaries' audited financial statements, for disclosure of bookstore contributions to other campus operations.

***Community Colleges' Action: Pending.***

According to the community colleges, it plans to initiate consultation with college chief executive officers, chief business officers, and bookstore managers to encourage them to implement this recommendation. The community colleges also states that it will initiate a conversation with the Association of College Business Officers on the contents of this recommendation and the best way for it to be implemented on local campuses. Furthermore, the community colleges indicated that it will recommend to colleges that transparency in bookstore pricing policies be addressed by local textbook taskforces that are already in existence or that were created in response to recommendations that were adopted in May 2008 by its board of governors.

**Finding #2: Many faculty members do not understand how their decisions and priorities affect the textbook costs to students.**

Nearly all the faculty members we interviewed about state laws encouraging them to participate in efforts to reduce textbook costs were unaware of them, and many did not understand how their textbook adoption decisions and priorities could affect students' textbook costs. For instance, state law encourages faculty to place their orders in a timely manner with their campus bookstores, and bookstore managers agree that prompt orders enhance their ability to provide students with opportunities for cost savings. However, according to the bookstores' records, most faculty members at the nine campuses in our review failed to meet the bookstores' submission deadlines for textbook adoptions. Specifically, campus bookstores received on average just 20 percent of the required textbook adoptions by the stores' deadlines, which typically fall in the middle of the preceding academic term. Only two of the nine campus bookstores reported receiving more than one quarter of the adoptions on time. Several bookstore managers said that in some cases instructors receive teaching assignments after textbook adoption due dates have passed. Although we acknowledge that these late assignments might contribute to the low submission rates previously noted, our finding that nearly half of the faculty members we spoke to were not aware of the importance of submitting their textbook choices in a timely manner suggests that lack of faculty awareness is likely a dominant factor.

Further, although state law encourages faculty to consider the least costly practices when selecting and assigning textbooks, many faculty members, department chairs, and deans we interviewed at nine campuses stated that cost is the last factor they consider or that they do not consider cost at all during the textbook adoption process. For instance, one professor listed 10 factors he considers more important than cost and cited only the availability of the textbooks as less important than cost. Many faculty members expressed similar priorities, explaining that they choose textbooks by considering factors like quality, readability, and relevance of content rather than cost. Although we acknowledge the importance of providing students with a quality education, faculty's failure to consider less costly textbooks that do not compromise quality may play a role in increasing students' textbook costs.

Additionally, some faculty members we interviewed did not know that bundled textbooks frequently have no resale value. Bookstore managers at the campuses we reviewed stated that they accepted few or no bundled textbooks or their components during buyback at the end of the academic term. Although some bookstore managers stated they sometimes purchase bundled items from students, they explained that usually publishers bundle textbooks with items that cannot be reused, such as CDs with expiring access codes or workbooks with removable pages. However, according to bookstore managers, even a bundle consisting of several separate textbooks may have no buyback value because the publisher has changed the components of the bundle in a revised edition that faculty adopt for the next academic term. Thus, bundled textbooks prevent buyback and limit the used textbook market, depriving students of short-term cost savings they might otherwise realize if faculty had not required them to purchase a textbook bundled with other items.

We recommended that UC, CSU, and the community colleges issue systemwide guidance on the textbook adoption process to ensure that faculty members are aware of factors affecting textbook costs. This guidance should direct campuses to communicate the provisions contained within recent state laws regarding textbook affordability; to advise faculty to submit their textbook adoption information to the bookstores by the due dates; to encourage faculty to consider price in the textbook adoption process and, without compromising the quality of the education students receive or the academic freedom of faculty, to consider adopting less costly textbooks whenever possible; and to instruct faculty to consider adopting textbooks that are not bundled with supplementary products, unless all the components are required for the course.

***UC's Action: None.***

UC did not specifically address this recommendation in its 60-day response to our audit report. However, UC acknowledged that it is still in the process of developing more specific action plans for implementing many of the recommendations, which it plans to include in its six-month response to our audit report.

***CSU's Action: Corrective action taken.***

In October 2008 CSU's executive vice chancellor/chief academic officer distributed an official "coded" memorandum to campus presidents requesting that they distribute a message to all faculty regarding our recommendations and that they renew their message to all faculty at appropriate times in order to remind them each academic term to take actions that may result in lower costs to students for textbooks and learning materials. CSU included a "draft text of a message to faculty regarding textbook affordability" for presidents to use at their discretion in communicating the recommendations in our report that relate to ensuring faculty members are aware of factors affecting textbook costs.

***Community Colleges' Action: Pending.***

According to the community colleges, it developed recommendations to colleges on textbook affordability in a report that it presented to its board of governors in May 2008 that address several of the bureau's recommendations. It indicated that one of the primary recommendations in its report was for colleges to create local textbook affordability taskforces that would include academic senates, faculty, and other stakeholders to address these issues. According to the community colleges, campuses began working on implementing the recommendations in its report at the start of the 2008–09 academic year. Further, the community colleges indicated that management and staff of its system office have made several presentations at statewide conferences of various community college stakeholders on textbook affordability between March and November 2008 that address the bureau's recommendations. It plans to have staff continue to make presentations at statewide conferences in the coming year whenever the opportunity presents itself. In addition, the community colleges stated that its system office is in the process of developing an on-line archive and Web site of research, policy, legislation, links, and other useful information to assist local college textbook affordability taskforces in implementing our recommendations. Once the Web site is complete, the community colleges plans to email an announcement of its contents to the distribution lists of all major community colleges constituent groups, including faculty. The community colleges indicate that it has begun the planning phase of this Web site and anticipates a completion date of February 2009.

**Finding #3: Campus bookstores use inconsistent methods to reduce textbook costs for students.**

Although a single campus bookstore might implement several strategies to reduce students' textbook costs, the bookstores across the three postsecondary educational systems we reviewed are inconsistent in the types of strategies they use. For instance, some campus bookstores guarantee they will buy back certain textbooks at the end of an academic term for 50 percent of the books' retail prices—even if faculty do not readopt the books or the publishers issue new editions. Other campus bookstores do

not offer such guarantees. Likewise, some but not all campus bookstores have developed incentives that encourage faculty to submit their textbook choices on time and thus increase the likelihood that the bookstores can procure used textbooks and pay higher amounts to students during buyback. By implementing consistent strategies that are equally effective, campus bookstores could provide greater opportunities for all students across the three systems to realize similar cost savings.

We recommended that UC, CSU, and the community colleges issue guidance directing campuses to advise their bookstores to evaluate the feasibility of implementing cost-saving strategies, such as low-price guarantees and guaranteed buyback on certain titles, to the extent they have not already done so.

***UC's Action: Pending.***

UC did not specifically address this recommendation in its 60-day response to our audit report; however, it did acknowledge that it has shared the audit report widely and is encouraging all campuses to consider one campus bookstore's practice that has resulted in a higher proportion of faculty meeting the textbook adoption due dates, and other notable practices mentioned in the report because of their success. Further, UC stated that several of the bookstore managers have reported their individual efforts to address the objectives of the recommendations, as well as their efforts to share their practices with their colleagues. Finally, UC asserted that it is still in the process of developing more specific action plans for implementing many of the recommendations, which it plans to include in its six-month response to our audit report.

***CSU's Action: Pending.***

Although CSU did not specifically address this recommendation in its 60-day response, it reported that organizational conversations have commenced with campus bookstores to evaluate alternative ideas that could reduce textbook costs, including buyback, rental, or exchange programs.

***Community Colleges' Action: Pending.***

The community colleges addressed this recommendation in its response to finding number 2.

**Finding #4: Some campuses have developed initiatives to reduce students' textbook costs.**

All the campuses we reviewed enable faculty to place copies of required textbooks on reserve at the library, and some have implemented strategies specifically intended to reduce the cost of textbooks for students. For instance, we found that one of the nine campuses in our review operates a textbook loan program for low-income students and three other campuses operate student book exchanges. Although few colleges have implemented textbook loan and rental programs, these are strategies that could make textbooks more affordable for students. For example, the director of one campus bookstore, who also oversees that campus's rental program, indicated that students typically pay from 25 percent to 45 percent of the new retail price to rent a textbook. Further, as the administrator of student activities, the associate dean at another campus indicated that to his knowledge he oversees the only book loan program in the three systems. He indicated that students may borrow up to three textbooks at no charge for an entire academic term. However, textbook rental and loan programs typically require initial startup costs and may demand ongoing funding to continue operating, which might explain the low participation rates among colleges in these programs.

Student book exchanges may also offer opportunities for students to reduce their textbook costs. Three campuses we reviewed reported hosting student book exchanges, operated by the associated students organization on each campus. One of the three campuses offered unique support to the program through the cooperation of the campus bookstore. According to the associated students' business manager at this campus, the bookstore gives the book exchange access to its entire textbook-ordering database, which includes information on adopted textbooks and new and

used textbook prices. Students at all three-book exchanges are able to set their prices. However, faculty's decisions to adopt a different textbook, or the publishers' decisions to release new editions, play a role in the success of student book exchanges.

We recommended that UC, CSU, and the community colleges issue guidance directing campuses to evaluate the feasibility of implementing book rental programs or student book exchange programs to the extent they have not already done so.

***UC's Action: None.***

UC did not specifically address this recommendation in its 60-day response to our audit report. However, UC acknowledged that it is still in the process of developing more specific action plans for implementing many of the recommendations, which it plans to include in its six-month response to our audit report.

***CSU's Action: Pending.***

Although CSU did not specifically address this recommendation in its 60-day response, it reported that organizational conversations have commenced with campus bookstores to evaluate alternative ideas that could reduce textbook costs, including buyback, rental, or exchange programs.

***Community Colleges' Action: Pending.***

The community colleges addressed this recommendation in its response to finding number 2.

**Finding #5: Open educational resources could provide long-term cost savings to students.**

The community colleges have recently explored various avenues for reducing textbook costs for students and increasing faculty's awareness of their role in textbook pricing. During the fall of 2007 and spring of 2008 academic terms, the system office of the community colleges convened two textbook summits to identify strategies that campuses could implement to reduce textbook costs. In early May 2008, as a result of the summit meetings, participants compiled a list of 11 recommendations for consideration by the board of governors—the entity that sets policy and provides guidance for the community college system of 72 districts and 110 colleges. In May 2008 the board of governors approved the nine short-term and two medium- to long-term recommendations.

One long-term recommendation was to “promote awareness, development, and adoption of free, open educational resources in the community colleges as alternatives to high-cost textbooks and learning materials.” To produce a traditional textbook, publishers must pay various costs such as author royalties, production, and development costs and, according to several publishers, these costs affect the final price of the textbook. Open educational resources can provide content similar to that of a traditional textbook in a paperless, on-line format. The William and Flora Hewlett Foundation, which is active in promoting open educational resources, defines them as teaching, learning, and research resources that reside in the public domain or have been released under intellectual property licenses that permit their free use or repurposing by others. Open educational resources include full courses; course materials; modules; textbooks; streaming videos; tests; software; and any other books, materials, or techniques used to support access to knowledge. According to one professor at a community college who uses open educational resources in her classroom and participated in the summit meetings, these resources offer an alternative approach to content delivery, as well as the potential for improved student learning and long-term cost savings to students.

Although open educational resources have received some faculty support, many faculty members are concerned that the content of this learning material may not be as credible as a traditional textbook, which typically undergoes a peer review process. Further, participants in the community college summit discussed potential issues about the compatibility of open educational resources and the requirements of the articulation process. According to the president of the academic senate for community colleges, UC and CSU will not accept transfer credits for certain Web and online classes. However, he stated that

the system office of the community colleges, the UC office of the president, and the CSU chancellor's office continue to refine articulation issues. Thus, as open educational resources is being developed as a possible long-term cost-saving strategy for students, the three systems need to clarify its impact on articulation requirements.

We recommended that the system offices of UC, CSU, and the community colleges continue taking steps to promote awareness, development, and adoption of open educational resources as alternatives to traditional textbooks. Further, to ensure that courses taught by faculty who mainly use these alternative instructional materials meet the articulation requirements for transfer to the UC and CSU systems, faculty and the system offices should collaborate to develop acceptable standards and policies related to content, currency, and quality of open educational resources.

***UC's Action: Pending.***

Although UC did not specifically address this recommendation in its 60-day response, it did state that it is partnering with the community colleges in the Hewlett-funded Open Textbook Project (project). According to UC, this effort aims to create free or low-cost, high-quality textbooks for community college students. Further, UC reported that its Strategic Publishing and Broadcast Services, which creates on-line courses targeted to the one million California students with limited access to college prep materials, is publishing an on-line course component for the project's first open textbook, a popular work co-authored by two community college mathematicians. UC stated that these on-line courses are all openly available on the Internet. UC acknowledged that it is still in the process of developing more specific action plans for implementing many of the recommendations, which it plans to include in its six-month response to our audit report.

***CSU's Action: Pending.***

CSU reported that it is continuing conversations with the community colleges regarding smooth articulation for those courses that use open educational resources. Further, CSU asserts that it has been a leader in open educational resources since 1997 with the development of the Multimedia Educational Resource for Learning Online Teaching (MERLOT). MERLOT is a digital library that contains over 20,000 free on-line learning materials across a wide range of academic disciplines. CSU stated that it recently partnered with the Public Interest Research Group to create and support a digital library service for people creating and searching for open educational resources. Further, CSU states that its Academic Technology Services division is delivering a program throughout the system to educate faculty on how best to utilize open educational resources to support use of both the open textbook collection as well as all other free instructional content. CSU reported that this program will include, among other things, workshops on the MERLOT digital library, an incentive program for faculty members to encourage their promotion and training of free MERLOT resources and the electronic core collection of CSU libraries—which is free for campus use due to systemwide licensing of these library resources. Further, CSU asserts that it will monitor campus bookstore pilots of digital textbooks to enable systemwide communication of pilot results.

***Community Colleges' Action: Partial corrective action taken.***

The community colleges stated that it plans to collaborate with the UC Office of the President, CSU Chancellor's Office, and with faculty on issues related to articulation and open educational resources through several existing mechanisms. Furthermore, the community colleges indicated it will continue to promote awareness, development, and adoption of open educational resources through the actions recommended by the community colleges board of governors in its May 2008 meeting. It also stated that its system office will support legislation and faculty development related to open educational resources, as well as the continued efforts of organizations like Community College Consortium for Open Educational Resources, and others to discover, create, and deploy these resources. Finally, the community colleges pointed out that AB 2261, which was chaptered in September 2008 and will go into effect January 1, 2009, authorizes the board of governors to establish a pilot program to provide faculty and staff from community college districts around the State with the information methods and instructional materials to establish open educational resources centers.

**Finding #6: The CSU is in the process of developing the Digital Marketplace.**

In addition to open educational resources, the Digital Marketplace—a one-stop, Web-based service for selecting, contributing, sharing, approving, procuring, and distributing no-cost and cost-based academic technology products and services—is another long-term strategy in the beginning stages of development by CSU. To provide a clearer definition of what this program will entail, the senior director of academic technology services for CSU (senior director) stated that the Digital Marketplace will be a centrally maintained system administered by individual campuses containing free content, such as open educational resources, as well as fee-based content, such as single chapters in digital format, for faculty to access and adopt as the educational materials they will use in their courses. Using this system or Web site, faculty will be able to select both free and fee-based digitized content for their courses, and students will no longer be required to purchase printed textbooks. Students also will be able to log on to the Web site to purchase the fee-based content and obtain the free materials at their own discretion. The senior director anticipates that each campus will be able to customize their Digital Marketplace services to meet their individual needs. Thus, it will allow publishers to provide educational content directly to students, bypassing the campus bookstore as a textbook retailer and eliminating the bookstore's markup on textbooks.

However, according to the senior director, despite its efforts to involve a broad base of CSU participants, the chancellor's office understands that faculty have diverse opinions of technology. Thus, one of the challenges confronting the Digital Marketplace is faculty resistance to digital teaching resources. Beyond faculty usage, the senior director described how the success of the Digital Marketplace partly depends on its reception by current and future college students. However, current college students have indicated that they prefer to read printed material, and the few copies of digital textbooks available at campus bookstores do not sell well. Thus, resistance from students as well as faculty may pose continuing obstacles for the implementation of the Digital Marketplace.

We recommended CSU to continue its efforts to develop, implement, and promote awareness of the Digital Marketplace, and while doing so, to monitor any resistance from students and faculty to ensure that the digital education content aligns with their needs and preferences.

***CSU's Action: Pending.***

CSU acknowledged that it will continue its efforts regarding the Digital Marketplace and make necessary modifications to respond to the needs and preferences of students and faculty. In its 60-day response, CSU stated that it is developing and testing a prototype of the Digital Marketplace. Specifically, it reported that the office of the chancellor has partnered with CSU San Bernardino in the testing of the prototype with a focus on faculty in academic year 2008–09. Further, CSU asserts that the Long Beach Center for Usability in Design and Accessibility will be testing the Digital Marketplace prototype with students in academic year 2008–09.

# California State Polytechnic University, Pomona

## Investigations of Improper Activities by State Employees, February 2007 Through June 2007

### INVESTIGATION I2007-0671 (REPORT I2007-2), SEPTEMBER 2007

#### *California State Polytechnic University, Pomona's response as of August 2008*

We investigated and substantiated an allegation that an employee with the California State Polytechnic University, Pomona (Pomona), inappropriately used university computers to view pornographic Web sites.

#### **Finding: The employee misused state resources to engage in improper activities.**

We asked Pomona to assist us in the investigation, and we substantiated the allegation. Pomona found that the official repeatedly used university computers to view Web sites containing pornographic material. State laws prohibit employees from using public resources, such as time and equipment, for personal purposes. In addition, these laws require employees to devote their full time and attention to their duties, and prohibit individuals employed by the State from using a state-issued computer to access, view, download, or otherwise obtain obscene matter. Specifically, Pomona found that the official viewed approximately 1,400 pornographic images on two university computers during several weeks in 2006 and also from February to May 2007. Pomona was unable to review the official's complete Internet usage because the settings on the official's main computer only allowed for a two-month retention period of Internet activity. When interviewed, the official admitted to viewing pornographic Web sites regularly using university computers.

#### ***Pomona's Action: Partial corrective action taken.***

In January 2008 Pomona stated that its academic senate approved an interim Appropriate Use Policy, which states that administrators, faculty, and staff must not use computers for personal purposes. Pomona reported that to become official, the interim policy must go through a meet-and-confer process with the unions for staff and faculty.

In August 2008 Pomona reported that it met with the two employee unions in July 2008 to start the meet-and-confer process. Pomona stated that the unions requested changes to Pomona's interim policy and that all parties must agree to the changes before the policy becomes official. We are concerned about the length of time Pomona has taken to institute a policy in response to an official accessing pornographic Web sites because one year after we issued our report, Pomona had not yet finalized its policy on the appropriate use of university equipment.

#### ***Investigative Highlight . . .***

*An employee at the California State Polytechnic University, Pomona, admitted, when interviewed, to viewing pornographic Web sites regularly using university computers.*







# California State University

## It Needs to Strengthen Its Oversight and Establish Stricter Policies for Compensating Current and Former Employees

REPORT NUMBER 2007-102.1, NOVEMBER 2007

### *California State University's response as of November 2008*

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the compensation practices of the California State University (university).<sup>1</sup> Specifically, the audit committee asked us to identify systemwide compensation by type and funding source, to the extent data are centrally maintained and reasonably consistent among campuses. The audit committee also asked us, subject to the same limitations, to categorize by type and funding source the compensation of highly paid individuals receiving funds from state appropriations and student tuition and fees. In addition, for the most highly paid individuals, the audit committee asked us to identify any additional compensation or employment inducements not appearing in the university's centrally maintained records, such as those recorded in any employment agreements with the university. Further, the audit committee asked us to review any postemployment compensation packages and identify the terms and conditions of transitional special assignments for highly paid individuals, including top executives and campus presidents, who left the university in the last five years. Finally, the audit committee asked us to determine the extent to which the university's compensation programs and special assignments are disclosed to the board of trustees (board) and to the public, including the types of programs that exist, the size and cost of each, and the benefits that participants receive. To the extent that this information is available and is not publicly disclosed, the audit committee asked us to include these items in our report.

### **Finding #1: The university has not developed a central system sufficient for monitoring compliance with its compensation policies.**

The chancellor's office establishes systemwide compensation policies but does not have a system in place that allows it to adequately monitor adherence to those policies and to measure their impact on university finances. Specifically, the chancellor's office does not maintain systemwide compensation data by type and funding source, either by individual or in total. The lack of this data impairs the ability of the chancellor's office to provide effective oversight of the university's compensation programs. The executive vice chancellor and chief financial officer (executive vice chancellor) indicated that it was never the intent of the chancellor's office to have detailed systems in place to monitor employee payments and to ensure that payments are consistent with policy, as it believes that is a campus responsibility. Accordingly, the financial tools available to the chancellor's office for payroll purposes reflect its view that campuses are delegated the authority and responsibility to monitor compliance with university

<sup>1</sup> The audit committee also requested that we review the university's hiring practices and employment discrimination lawsuits. The results of our review of these areas were included in a separate report (2007-102.2), which we issued in December 2007.

### **Audit Highlights . . .**

*Our review of the California State University's (university) compensation practices revealed the following:*

- » *The university has not developed a central system enabling it to adequately monitor adherence to its compensation policies or measure their impact on university finances.*
- » *Average executive compensation increased by 25.1 percent from July 1, 2002, through June 30, 2007, with salary increases contributing the most to the growth.*
- » *The board of trustees (board) has justified increasing executive salaries on the basis that its executives' cash compensation, excluding benefits and perquisites, lags those of comparable institutions, but concerns have been raised about the methodology used.*
- » *The university has three executive transition programs that provide postemployment compensation packages to departing executives, in addition to the standard retirement benefits available to eligible executives.*
- » *Some Management Personnel Plan employees received questionable compensation after they were no longer providing services to the university or while they were transitioning to faculty positions.*
- » *The discretionary nature of the university's relocation policy can result in questionable reimbursements of costs for moving household goods and closing costs associated with selling and purchasing residences.*

policy. The executive vice chancellor cited the standing orders of the board and the board's statement of general principles as the general policy basis for this delegation. Although we recognize that campuses have primary responsibility for implementing compensation policies, it is important for the chancellor's office to have sufficient data to ensure that the campuses appropriately carry out their responsibilities.

To provide effective oversight of its systemwide compensation policies, the university needs accurate, detailed, and timely compensation data. The university should create a centralized information structure to catalog university compensation by individual, payment type, and funding source. The chancellor's office should then use the data to monitor the campuses' implementation of systemwide policies and to measure the impact of systemwide policies on university finances.

***University's Action: Partial corrective action taken.***

The university reports that the board continues to believe that it is appropriate to delegate authority to campus presidents to monitor employee pay transactions. The board does not believe that it is necessary for the chancellor's office to monitor this information. However, in order to improve transparency, the chancellor will review presidential recommendations for vice presidential compensation, including salary, salary increases, bonuses, and supplemental compensation, from all fund sources, upon initial appointment and in subsequent years, and will provide an annual report to the board on such compensation each fall. The university also reports that in April 2008 it provided training to almost 600 employees who enter salary and payroll data at all 23 campuses on the coding of salary payments. In addition, the university created a business process model to provide guidance to campuses on required steps when entering data, and enhanced its personnel/payroll transaction form to reduce the possibility of coding errors. The university states it is in the process of identifying any employees who were required to attend the training, but did not, and will ensure that any such individuals receive the training. The university states that once this process is complete, its office of the university auditor will review the new business process model and the changes to the personnel/payroll transaction form to determine their effectiveness. Finally, the office of the university auditor will also conduct periodic audits to ensure the proper coding of payments. However, although such steps may be beneficial, they do not satisfy the need for centralized oversight of the university's compliance with its systemwide compensation policies.

**Finding #2: The board has continually justified increasing executive salaries on the basis that its executives' cash compensation lags that of comparable institutions.**

Average executive compensation increased by 25.1 percent from July 1, 2002, through June 30, 2007. Because this increase was greater than that of other employee classifications, we examined the growth in the various components that make up executive compensation—salaries, housing allowances, and automobile allowances—over the five-year period. We found that salary increases contributed the most to this growth, with the board approving salary increases on three separate occasions. The salary increases for executives ranged from an average of 1.68 percent to 13.7 percent. The board has continually justified increasing executive salaries on the basis that its executives' cash, or salary, compensation lags behind that of comparable institutions. However, as early as October 2004, the California Postsecondary Education Commission (commission), the entity that was involved with executive compensation studies until that time, raised concerns that the methodology used in making such comparisons did not present a complete picture of the value of individual compensation packages because it did not consider benefits and perquisites provided to executives, which can be substantial. Despite these concerns and the absence of further commission involvement in surveys of executive compensation, the university proceeded to use a consulting firm to perform surveys of the comparison institutions using the questioned methodology. Further, documents indicate that the board approved executive salary increases in October 2005 and January 2007 based only on the lag in cash compensation.

The commission and the Legislative Analyst's Office (legislative analyst) expressed further concerns in 2007 about the existing methodology used in these types of comparisons. Nevertheless, in September 2007 the board granted its executives another raise averaging 11.8 percent. Further, the chancellor recommended that the board adopt a new formal executive compensation policy and

that the board continue to have a salary target focused on the average cash compensation for similar positions at comparable institutions. In response to these recommendations, the board adopted a new executive compensation policy and resolved that it aims to attain parity for its executives and faculty by fiscal year 2010–11.

We asked the chancellor's office why the university continued to justify increases in compensation for its executives based on a methodology that has been questioned by the commission and the legislative analyst. The chancellor's office responded that the university did not believe it appropriate to deviate from a methodology that was agreed upon years ago by the various interested parties, including the commission and the legislative analyst. However, as these are now the same parties that are raising concerns, we believe it is time for the university to work with the interested parties to develop a more appropriate methodology that considers total compensation.

We recommended that the board consider total compensation received by comparable institutions, rather than just cash compensation, when deciding on future salary increases for executives, faculty, and other employees. The university should work with interested parties, such as the commission and the legislative analyst, to develop a methodology for comparing itself to other institutions that considers total compensation. If the university believes it needs a statutory change to facilitate its efforts, it should seek it.

***University's Action: Partial corrective action taken.***

The university agrees that total compensation must reflect salary and the range of benefits available to different employee categories in order to make accurate comparisons to the marketplace. In addition, the university reports that it has initiated conversations with the legislative analyst, the commission, the Department of Finance, and legislative staff regarding the methodology and comparison institutions to be used for calculating compensation comparisons. The university also states that, working with an outside consultant, it will produce an executive and faculty total compensation report that will be presented to the board in the fall of 2009. Finally, the university will produce this report every five years, and more frequently if necessary, and will expand the report to include all employee groups.

**Finding #3: The university has generous postemployment compensation packages for departing executives.**

The university typically offers its departing executives a transition program that often provides a generous postemployment compensation package. This program is in addition to the standard retirement benefits the university provides to eligible executives, including retirement income, medical and dental coverage, and voluntary retirement savings plans. Although the original transition program has been overhauled a few times, leaving the university with three transition programs currently in use, each departing executive is eligible for the program that was in place at his or her time of appointment. The terms of the transition agreement offered to a departing executive vary with the transition program the executive is eligible for but can include one year of paid leave, lifetime tenure as a trustee professor at a campus, or an alternative agreement negotiated by the chancellor.

In November 2006, after media criticism of existing postemployment compensation packages, the board passed a resolution requiring the chancellor to provide every board member with a copy of each final transition agreement and to submit an annual report summarizing all existing transition agreements. However, the annual report contains no information on the status of accomplishments or deliverables that former executives may have agreed to provide the university as part of their transition agreements, and disclosure does not occur until after the chancellor has reached a final agreement with a departing executive. Although the board has decided not to participate in negotiating transition agreements, it is important that the board continue to monitor the chancellor's administration of the executive transition program to ensure that the agreements departing employees receive are prudent and that intended cost savings are achieved for the university.

We recommended that the board continue to monitor the executive transition programs to ensure that the chancellor administers them prudently and that intended cost savings are achieved for the university. In addition, the board should require the chancellor to include in the transition agreements clear expectations of specific duties to be performed, as well as procedures for the former executives to report on their accomplishments and status of deliverables. Further, the board should require the chancellor to include information in his annual report on the status of accomplishments and deliverables associated with transition agreements.

***University's Action: Partial corrective action taken.***

The university reports that the chancellor already has begun to include in transition agreements clear expectations regarding specific duties to be performed by executives. In addition, in January 2008, the board adopted a resolution requiring the chancellor to report on progress and deliverables associated with transition agreements in his annual update on executive transitions. In a September 2008 board meeting, the chancellor provided the board a report on executives participating in transition programs. We reviewed this report and noted that there is only one former executive participating in an active transition program. Although the report indicated that the former executive is serving as a trustee professor at the university's Los Angeles campus, it did not include any information on the status of this individual's accomplishments or deliverables.

**Finding #4: The university paid questionable compensation to management personnel no longer performing services for the university.**

The paid leaves of absence the university provides as part of transition programs are intended only for departing executives. However, the university operates under a very broad policy for granting paid leaves of absence for Management Personnel Plan employees (management personnel). Title 5, Section 42727, of the California Code of Regulations, which addresses professional development, specifies that management personnel may participate in programs and activities that develop, update, or improve their management or supervisory skills. The programs and activities may include "professional leaves, administrative exchanges, academic coursework, and seminars." Management personnel may participate in such programs and activities only after the chancellor or campus president grants approval and only to the extent that funds are available. The regulations do not sufficiently define the criteria that must be met before a paid leave will be granted, and it does not establish time restrictions for a paid leave.

Our review confirms the need for the university to strengthen its regulations and policies in this area. In reviewing a sample of personnel files at the chancellor's office and various campuses, we found instances in which management personnel received questionable compensation after they were no longer providing services to the university or while they were transitioning to faculty positions. For example, we found that one individual, who received compensation totaling \$102,000 during a seven-year leave on the premise that he was gaining experience that would benefit the university on his return, never returned to university employment. We also noted that one individual was granted a future leave of absence with pay to transition from an administrative position to a faculty position.

We recommended that the university work through the regulatory process to develop stronger regulations governing paid leaves of absence for management personnel. The improved regulations should include specific eligibility criteria, time restrictions, and provisions designed to protect the university from financial loss if an employee fails to render service to the university following a leave. Further, the board should establish a policy defining the extent to which it wants to be informed of such leaves of absence for management personnel.

***University's Action: Partial corrective action taken.***

At a September 2008 meeting, the board approved a resolution to add Section 42729 to Title 5 of the California Code of Regulations that would govern paid leaves of absences for management personnel. In October 2008 this new regulation became operative and established eligibility criteria and time restrictions for such leaves of absence. However, this new regulation does not include any provisions to protect the university from financial loss in the event an employee fails to render service to the university following a leave. Also, in its periodic responses to our report, the university did not address our recommendation that the board establish a policy defining the extent to which it wants to be informed of leaves of absence for management personnel.

**Finding #5: The university exercises considerable discretion in paying relocation costs for new employees.**

The university has established a broad policy for paying costs related to moving and relocation (collectively referred to here as relocation) for its employees. The policy provides that incoming employees may receive reimbursement for actual, necessary, and reasonable expenses but includes few monetary limits for reimbursable expenses. Further, although the policy identifies the types of expenses that can be reimbursed, it contains clauses permitting the chancellor or campus presidents to grant exceptions. The chancellor determines the amounts of relocation reimbursements for executives, campus presidents, and management personnel in the chancellor's office, and the campus presidents determine the amounts for management personnel and faculty at their respective campuses. Neither the chancellor nor the campus presidents are required to obtain the approval of the board for relocation reimbursements, and they typically do not disclose these payments to the board. The discretionary nature of the university's policy can result in questionable reimbursements for costs, such as those for moving household goods and closing costs associated with selling and purchasing residences. These costs can be considerable. For example, we noted that the university reimbursed one individual for \$65,000 in closing costs and \$19,000 in moving expenses.

We recommended that the university strengthen its policy governing the reimbursement of relocation expenses. For example, the policy should include comprehensive monetary thresholds above which board approval is required. In addition, the policy should prohibit reimbursements for any tax liabilities resulting from relocation payments. Finally, the board should require the chancellor to disclose the amounts of relocation reimbursements to be offered to incoming executives.

***University's Action: Partial corrective action taken.***

The university's initial response to our report commented that the board would consider means of strengthening the controls related to the reimbursement of relocation expenses and that it would review the amount of discretion given to system executives and determine the extent to which the board wishes to review or approve any such expenses. However, it does not appear that the board has taken any action to strengthen the university's policy governing the reimbursement of relocation expenses. Rather, the board has simply required the chancellor to disclose the amounts of any such reimbursements offered to incoming executives. For example, at a July 2008 board meeting, the chancellor reported that the university would be reimbursing the new president of the San Jose campus up to \$18,775 for the costs of moving his household goods and property from his prior residence. In addition, the chancellor disclosed that the university would reimburse the new president up to \$66,577 for brokerage commissions, escrow fees, prepayment penalties, taxes, and other expenses associated with selling his prior residence. These relocation reimbursements are in addition to the new president's starting annual salary of \$353,000, university-provided housing, a university-provided vehicle or a \$1,000 monthly vehicle allowance, and other standard benefits that the university provides to its executives.

At a September 2008 board meeting, the chancellor reported that he had agreed that the university would reimburse its recently appointed vice chancellor of administration and finance up to \$39,758 for the costs of relocating his household goods and property from his prior residence.

In addition, the chancellor disclosed that the university would reimburse the new vice chancellor up to \$67,500 for brokerage commissions, escrow fees, prepayment penalties, recording fees, taxes, and other expenses associated with selling his prior residence. In this case, the chancellor also reported that he had agreed to provide the new vice chancellor with temporary housing for up to 60 to 90 days, at the chancellor's discretion. Again, these relocation reimbursements are in addition to the new vice chancellor's starting annual salary of \$310,000, a \$1,000 monthly vehicle allowance, and other standard benefits afforded to the university's executives.

**Finding #6: The university's policy on dual employment is limited.**

The university has established a dual-employment policy that allows its employees to have jobs outside the university system as long as no conflicts of interest exist. However, the policy does not require employees to obtain prior approval for outside employment, nor does it require them to disclose that they have such employment. Thus, the university is unable to adequately determine whether employees have outside employment in conflict with their university employment.

The university should work to strengthen its dual-employment policy by imposing disclosure and approval requirements for faculty and other employees, including management personnel. If the university believes it needs a statutory change to facilitate its efforts, it should seek it.

***University's Action: Pending.***



The university reports that it will continue to work through the collective bargaining process to strengthen the outside employment policy for faculty. The university states that it will adopt for executives and management personnel similar requirements to those adopted for faculty.

# California State University

## It Is Inconsistent in Considering Diversity When Hiring Professors, Management Personnel, Presidents, and System Executives

REPORT NUMBER 2007-102.2, DECEMBER 2007

### *California State University's response as of December 2008*

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the California State University's (university) practices for hiring to determine how it ensures that faculty and executives reflect the gender and ethnicity of the university they serve, the State, and the academic marketplace.<sup>1</sup> As part of our audit, we were asked to determine how the university develops hiring goals and how it monitors progress in meeting those goals. In addition, we were to gather and review the university's statistics on its hiring practices and results over the last five years and, to the extent possible, present the data collected by gender, ethnicity, position, and salary level.

### **Finding #1: Campuses are inconsistent in their approaches to considering diversity in their hiring processes.**

The chancellor's office and the board of trustees (board) of the university, who delegate the hiring authority of assistant, associate and full professors (professors) to the campuses, have not adopted systemwide guidance to aid in standardizing the hiring process. As a result, the five campuses we reviewed use different methods to consider gender and ethnicity in the hiring of professors. Although California's Proposition 209 specifically prohibits the university from giving preferences to women or minorities during the hiring process, these requirements coexist with federal affirmative action regulations and thus are not intended to limit employment opportunities for women or minorities.

During the position allocation phase of the hiring process for professors, the campuses we reviewed do little, if anything, in considering gender and ethnicity. For instance, just one of the five campuses we reviewed encourages departments to consider faculty diversity at this stage. We acknowledge that departments can choose to hire professors in a specialized field of study in which proportionately fewer women and minorities exist to meet reasonable academic needs. However, when flexibility exists, they should be open to the idea of recruiting new professors from those disciplines or areas of specialization that will not decrease the likelihood of hiring female or minority professors.

Further, the California Faculty Association recommends that search committees review their campuses' affirmative action plans so they are aware of underrepresentation and the actions that administrators have recommended to improve recruitment efforts to reach women

<sup>1</sup> The audit committee also requested that we review the university's compensation practices. The results of our review of those practices were the subject of a separate report (2007-102.1) issued November 6, 2007.

### **Audit Highlights . . .**

*Our review of California State University's (university) hiring processes and employment discrimination lawsuits revealed the following:*

- » *The university has issued little systemwide guidance to the campuses regarding the hiring process.*
- » *Campuses are inconsistent in their consideration of gender and ethnicity when hiring assistant, associate, and full professors.*
- » *Campuses use differing levels of detail when estimating the percentage of qualified women and minorities available for employment, decreasing the university's ability to effectively compare data among campuses.*
- » *Campuses have hiring policies that vary in terms of the amount of guidance they provide search committees for Management Personnel Plan employees, and one campus has developed no policies for these positions that relate to nonacademic areas.*
- » *While the hiring process for presidents requires input from many stakeholders, the hiring of system executives is largely at the discretion of the chancellor in consultation with the board of trustees.*
- » *As of June 30, 2007, the university spent \$2.3 million on settlements resulting from employment discrimination lawsuits filed during the five-year period we reviewed, and \$5.3 million for outside counsel in defending itself against such lawsuits.*



and minorities. Nevertheless, the campuses we reviewed generally did not share information from the affirmative action plans with search committees. Additionally, although women and minority professors can provide search committees with different perspectives when evaluating candidates, the campuses we reviewed generally did not have written policies that address gender and ethnic representation on such committees. Further, the chancellor's office has not issued guidance on this matter. As a result, some campuses consider the gender and ethnic composition of search committees, while others forbid it.

Additionally, to analyze their employment processes in accordance with federal regulations, campuses distribute surveys to all job applicants to determine their gender and ethnicity. The University of California has issued guidelines that state that if women and minority applicants are not present in the applicant pool at about the rate of their estimated availability in the corresponding labor pool, campuses should review recruitment and outreach efforts and can consider reopening the search with expanded inclusive recruitment efforts. However, the chancellor's office has not issued guidance in this area. Not performing such comparisons increases the risk that departments are unaware of the need to perform more inclusive outreach.

Because applicants are not required to submit the surveys containing their gender and ethnicity, it is not unexpected that response rates can be low. During our review of the hiring processes at five campuses, we noted that one campus sent out a reminder e-mail to applicants requesting that they complete and submit the forms containing their gender and ethnicity, even if they decline to disclose their gender and ethnicity. The campus notes that while it does not typically send reminders to applicants, it does so when response rates are unreasonably low. This practice seems a promising measure to increase the low response rates cited by campuses as a reason why comparing applicant pool data with labor pool data often is not meaningful.

We recommended that the university issue systemwide guidance on the hiring process for professors to ensure it employs hiring practices that are consistent with laws and regulations and among campuses. This guidance should include the development of position descriptions that are as broad as possible, the use of affirmative action plans to familiarize search committees with estimated availability for women and minorities, the development of alternatives for including women and minorities on search committees, a requirement to compare the proportion of women and minorities in the total applicant pool to the proportion in the labor pool to help assess the success of their outreach efforts, and the distribution of reminders to applicants requesting them to submit information regarding their gender and ethnicity.

***University's Action: Partial corrective action taken.***

The university reported that in spring 2008 it formed a committee composed of campus and system managers to develop systemwide guidelines for hiring professors consistent with the provisions contained within the collective bargaining agreement between the university and the California Faculty Association. The university stated that subsequently, once the committee completed its work, campus faculty affairs managers, equal employment opportunity officers, and the system's office of the general counsel reviewed the systemwide guidelines. In December 2008 the university offered two training courses on the hiring process for professors, which included a discussion on campus affirmative action plans and Proposition 209, and stated that it distributed these guidelines to training participants at that time. Further, the university reported that it plans to distribute the guidelines officially to campuses in the near future. The systemwide guidelines include guidance to campuses on developing position descriptions as broadly as possible, ensuring search committees understand university policies on recruitment as they relate to equity and affirmative action, devising alternatives to create diverse search committees where possible, and establishing processes for monitoring the search process and applicant pool during the hiring process.

➔ The university did not address the portion of the recommendation relating to the distribution of reminders to applicants requesting them, when response rates are low, to submit information regarding their gender and ethnicity in its one-year response to our audit. However, in its original response to our audit report, the university stated that it would notify campus officials that they

may send reminders to applicants regarding the submission of their gender and ethnicity, but that such reminders should clearly explain the use of the data collected and the applicants' rights to decline to submit such information.

**Finding #2: Campuses are inconsistent in how they conduct their availability analyses.**

Because the chancellor's office does not provide campuses with a uniform method for determining availability, campuses have some latitude in deciding the factors they will consider. Availability is an estimate of the number of qualified women or minorities available for employment in a given job classification expressed as a percentage of all qualified persons available for employment in the comparable labor pool. Because, according to the university, campuses have different recruitment areas, specialties, and positions, the campuses each determine their own availability. However, our review of the availability analyses for various university campuses revealed that the reasonable recruitment area for professors is nationwide. Therefore, we believe that a uniform method of determining availability for professors in the reasonable recruitment area is possible, appropriate, and necessary.

We also noted differing levels of detail in campus availability analyses in their affirmative action plans. For instance, three of the five campuses we reviewed presented an aggregate analysis for professors campuswide rather than comparing the gender and ethnicity of their current professors in each department to those available in the labor pool. The differing levels of detail decrease the university's ability to effectively compare data among campuses.

We recommended that the university devise and implement a uniform method for calculating availability data to better enable it to identify and compare availability and goals systemwide and among campuses. Further, it should direct campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by individual department to ensure that goals are meaningful and useful to those involved in the hiring process.

***University's Action: Pending.***

The university did not address this recommendation in its one-year response to our audit. However, in its original response to our audit report, the university asserted that it would establish a task force comprised of campus officials in order to identify a workable method for uniform calculating of availability data. The university also indicated that it would identify the appropriate levels for data comparison, stating that in some cases this may be at the department level, school, or other division level. Additionally, in its systemwide guidelines, the university included information pertaining to the formation of search committees, including the provision contained within the collective bargaining agreement between the university and the California Faculty Association that stipulates that campuses have departments elect faculty to serve on search committees.

**Finding #3: The hiring process lacks consistent training.**

Some campuses have more detailed procedures than others to maintain the integrity of the hiring process and to ensure that search committee members are aware of applicable laws and regulations. For instance, some campuses require search committee members to attend training regarding the hiring process while others do not. As a result, not all of the departments we reviewed were aware of campus hiring protocols. For example, although the collective bargaining agreement between the board and the California Faculty Association requires that search committees be elected and consist of tenured professors, some departments do not elect their search committee members. Further, this lack of guidance may have contributed to one campus developing a policy that requires the consideration of gender or ethnicity in hiring decisions. This policy is inconsistent with what other campuses are doing: the remaining four campuses we reviewed indicated that gender or ethnicity would never play a role in their hiring decisions because Proposition 209 prohibits preferences based on these factors.

We recommended that the university issue systemwide guidance that instructs campuses to require search committee members to receive training offered at the campus level regarding the hiring process, federal regulations, Proposition 209, and other relevant state and federal laws. Additionally, we recommended that the university take action to ensure that campuses have departments elect faculty to serve on search committees to help ensure that searches are conducted in accordance with the collective bargaining agreement and campus policies.

***University's Action: Partial corrective action taken.***

The university stated that it believes that campuses have primary responsibility for ensuring that search committee members and administrators with hiring authority are well informed about campus policies and practices regarding hiring. In the systemwide guidelines that it has developed and plans to officially distribute to campuses in the near future, the university emphasizes that campuses have a responsibility to provide training to individuals who will be involved with hiring professors and that it is especially important that members of search committees comply with established campus policies and obtain permission before deviating from published hiring processes. Additionally, to address the need for systemwide training, the university stated that in spring 2008, it developed a task force to, among other things, develop a training program to disseminate information to campuses on the appropriate use of affirmative action plans and availability data as well as Proposition 209 issues. Subsequently, in December 2008, the university offered two web-based training courses that it stated covered the use of affirmative action plans as well as strategies for inclusive outreach and guidelines for good practice in hiring professors. The university asserted that, as a long-term strategy, the chancellor's office has committed to developing a web-training module that could be used by campuses in conjunction with their own training, which it states it will develop and implement in 2009.

Additionally, in its systemwide guidelines, the university included information pertaining to the formation of search committees, including the provision contained within the collective bargaining agreement between the university and the California Faculty Association that stipulates that campuses have departments elect faculty to serve on search committees.

**Finding #4: Campuses' hiring processes for management personnel vary and they are inconsistent in considering diversity in recruiting for these positions.**

Similar to the hiring authority the university has delegated to campuses for professors, it has also delegated authority to the campuses to develop policies for hiring Management Personnel Plan employees (management personnel). Also, as with the hiring of professors, the university has not adopted systemwide guidance to aid in standardizing the hiring process for management personnel. Thus, it is not surprising that campuses we reviewed have developed hiring policies that vary in the amount of guidance they provide search committees on how to conduct the search process. For instance, only one of the five campuses we reviewed has developed policies that address each of the key steps in the hiring process for both academic and nonacademic management personnel, while some of the remaining campuses allow search committees for management personnel positions discretion in conducting the hiring process. In fact, one campus has not developed any formal written policies to govern the hiring of nonacademic positions.

Search committee members can be appointed or elected to serve depending on their position or campus and are generally responsible for conducting the search process for management personnel. Because these responsibilities are crucial to a hiring process that is fair and equitable, composition of the search committee is an important consideration. For instance, women and minorities can provide search committees with different perspectives when evaluating candidates. However, assessment of the gender and ethnic composition of search committees is not specifically required.

We have similar concerns regarding inconsistencies in campuses' approaches to considering gender and ethnicity at various stages in the hiring process for academic management personnel to those we express for hiring professors. Campuses we reviewed generally did not share information in their

affirmative action plans with search committees when planning the search process for academic management personnel in order to make progress in achieving equal employment opportunity for underrepresented groups. Further, although federal regulations require contractors, such as the university's 23 campuses, to perform in-depth analyses of their total employment processes to determine whether and where impediments to equal opportunity exist, most campuses we reviewed do not require an assessment of applicant pool data to evaluate their success in recruiting women and minorities. Moreover, because applicants are not required to submit the surveys containing their gender and ethnicity, response rates can be low, thus inhibiting the meaningfulness of comparing the diversity of the applicant pool to the estimated availability in the labor pool. As discussed in Finding 1, we noted a promising measure at one campus as it states that it sends reminders to applicants when response rates are unreasonably low requesting that they complete and submit the forms containing their gender and ethnicity.

We have some additional concerns about the hiring of nonacademic management personnel. The campuses we reviewed generally lack a requirement that search committees review information in campus affirmative action plans when planning the hiring process and performing an analysis of applicant pool data to assess their success in recruiting women and minorities for nonacademic management personnel positions. We also noted inconsistent hiring practices between academic and nonacademic management personnel positions at one campus. This inconsistency further highlights the need for the chancellor's office to issue systemwide guidance on the hiring process for all management personnel.

Finally, we have concerns about the manner in which the campuses conduct their availability analyses for these positions. The campuses we reviewed consider management personnel at the administrator IV level as one group for purposes of their availability analysis. Because they do not separate the analysis for management personnel based on the functions of the positions, the analysis is not as meaningful as it could be. For instance, campuses could present the analysis separately based on position duties, such as those having responsibility for academic affairs or finance, because these positions typically draw from separate labor pools. Devising a meaningful analysis may assist campuses in better planning their search and recruitment efforts for management personnel.

We recommended that the university issue systemwide guidance on the hiring process for management personnel and in developing this guidance it should direct campuses to develop hiring policies for management personnel that address the key steps in the hiring process. Further, this guidance should include the development of alternatives for including women and minorities on search committees, the use of affirmative action plans so search committees are aware of the underrepresentation of women and minorities, a requirement to compare the proportion of women and minorities in the total applicant pool to the proportion in the labor pool to help assess the success of their outreach efforts, and the distribution of reminders to applicants requesting them to submit information regarding their gender and ethnicity. Additionally, we recommended that the university advise campuses to compare and report the gender and ethnicity of their current workforce to the labor pool by separating management personnel positions into groups based on the function of their positions to ensure goals are meaningful and useful to those involved in the hiring process.

***University's Action: Partial corrective action taken.***

The university did not specifically address this recommendation in its one-year response to our audit, as it did not indicate whether it had issued systemwide guidance on the hiring process for management personnel or whether it had advised campuses on the manner in which to compare and report the gender and ethnicity of their current workforce. However, in its previous response to our audit report, the university asserted that it organized a task force of campus and system representatives in spring 2008 to work on guidelines to inform management personnel searches on best practices for inclusion of women and minorities on search committees, proper use of affirmative action goals and availability data, and broader advertising, as well as a training program for dissemination of this information. In its one-year response, the university stated that it developed systemwide web-based training covering the use of affirmative action plans,



strategies for inclusive outreach, and guidelines for good practice in the management personnel hiring process. In December 2008 the university offered this training in two web-based training courses. According to the university, as a long-term strategy, the chancellor's office is committed to developing a web-training module that could be used by campuses in conjunction with their own training, which it plans to develop and implement in 2009.

**Finding #5: Policies for hiring system executives are minimal and the consideration of diversity when hiring presidents and system executives is limited.**

The chancellor alone is responsible for the search process for system executives; the policy governing this hiring process gives the chancellor discretion on how to conduct the search. According to the university's chief of staff, the board's policy provides the chancellor with this responsibility because the board believes the chancellor should have the ability to select his or her executive team. The search process for system executives must include representation from the board and advice from one or more presidents, faculty, and students chosen at the chancellor's discretion. For the one system executive hired during our audit period, the chancellor appointed a search committee whose responsibilities included screening and selecting applicants. However, without establishing more complete policies to guide the recruitment process for system executives, the university cannot ensure that the process for each search is fair, equitable, and consistent.

Further, the university policies for hiring presidents and system executives do not require consideration of gender and ethnicity during the hiring process. For instance, although professor positions are generally advertised in a variety of sources, including the Women in Higher Education and Hispanic Outlook, these same publications are not routinely used when advertising for presidential and system executive positions. According to the university's chief of staff, advertising is just one aspect of recruiting and that, in the experience of the chancellor's office, the best means to attract women and minority applicants is through direct personal contact, including that made by the chancellor, the chief of staff, or a third party such as a campus president. Nevertheless, the university could enhance the effectiveness of its current recruitment efforts by having a more broad-based and consistent advertising requirement for presidential and system executive positions. Further, the university's policies that govern the formation of the search committees involved in the search and selection process for presidential positions do not address gender and ethnic representation on such committees.

We recommended that the university establish more complete policies to guide the recruitment process for system executives to ensure that the process for each search is fair, equitable, and consistent. Further, to ensure it is conducting inclusive and consistent advertising to obtain as diverse an applicant pool as possible, the university should require broad-based advertising, including publications primarily with women or minority audiences, for all presidential and system executive positions. Finally, to broaden the perspective of the committees involved in the search for presidential positions, the university should develop policies regarding the diversity of these committees and consider alternatives to increase their diversity.

***University's Action: Partial corrective action taken.***

- ➔ The university's board approved a revised policy and procedure for the recruitment and selection of system executives in March 2008; however, the university did not state in its one-year response that it required broad-based advertising for all presidential and system executive position searches. Instead, the university asserted that broad advertising is embedded into practice for recruitment of system executives and university presidents.
- ➔ In its one-year response, the university did not address the recommendation that it should develop policies regarding the diversity of search committees for presidential positions and consider alternatives to increase their diversity. However, in previous responses, the university stated that with respect to developing policies about the diversity of trustees serving on presidential search

committees, appointment to the board is not within the control of the university system. The university claims that restricting membership of trustees and others based on gender and ethnicity to serve on presidential search committees could be a violation of Proposition 209. However, because of the importance of this issue, we believe that the university should explore ways in which to develop policies in this area that are consistent with Proposition 209.



# Home-to-School Transportation Program

## The Funding Formula Should Be Modified to Be More Equitable

REPORT NUMBER 2006-109, MARCH 2007

### *California Department of Education's response as of February 2008*

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the California Department of Education's (Education) disbursement of Home-to-School Transportation (Home-to-School) program funds to identify any inequities. Specifically, we were asked to review the funding formula that Education uses to determine Home-to-School program payments to school districts. The audit committee also asked us to determine how the program is funded and what roles Education and school districts have in determining the funding levels. In addition, we were asked to compare data related to the number and percentage of students receiving transportation services, the amount paid for the Home-to-School program in total and per student, the actual cost of transporting students in total and per student, and the excess cost over Home-to-School program payments by school district and region for both regular and special education students to determine if and why variances exist. Further, the audit committee asked that we determine how school districts fund the difference between what is paid to them by Education and their actual cost, and evaluate, to the extent possible, whether this practice affects other programs. Additionally, the audit committee asked us to determine, to the extent possible, whether any correlations exist between higher transportation costs and staffing levels.

### **Finding: The prescribed funding formula does not allow some school districts to receive transportation funding.**

Home-to-School program funding is contingent upon receiving funds for this program in the immediately preceding fiscal year. Consequently, some school districts and county offices of education (school districts) are not eligible to receive these funds. Current laws require that Education allocate Home-to-School program funds to each school district based on the lesser of its prior year's allocation or approved cost of providing transportation services, increased by the amount specified in the budget act. School districts that did not previously receive Home-to-School program allocations for special education transportation, regular education transportation, or both, are not eligible to receive these allocations under the current laws. Furthermore, some school districts have experienced dramatic increases in student population over the years. Although the funding method provides for some adjustments for the increase in statewide average daily attendance, the allocations have not always increased at the same rate as the increase in student population at individual school districts.

To determine the fiscal impact on school districts that do not receive the Home-to-School program funds, we recommended that Education identify all school districts that provide transportation services to their students but are not eligible to receive Home-to-School program

### **Audit Highlights . . .**

*Our review of the Home-to-School Transportation (Home-to-School) program administered by the California Department of Education found that:*

- » *The current legally prescribed funding mechanism prevents some school districts from receiving Home-to-School program funds because of the basis of allocation.*
- » *Although the annual budget act increases the Home-to-School program funds to account for the increases in the statewide average daily attendance, these increases are less than the student population growth some school districts have experienced over the years.*
- » *Urban school districts received less overall Home-to-School program payments per student transported than rural school districts (\$559 versus \$609) and paid for more overall costs per student transported from non-Home-to-School program funds (\$828 versus \$299).*
- » *While all school districts typically incurred higher costs to transport a special education student, such costs were higher in rural school districts (\$5,315) than in urban school districts (\$4,728).*
- » *Staffing levels and student test scores bear no relationship to the amount of transportation expenditures the school districts paid per student from non-Home-to-School program funds during fiscal year 2004–05.*



funds for regular education transportation, special education transportation, or both. In addition, we recommended that Education determine the actual costs these school districts incur and the funding sources they use to pay them. Further, we recommended that Education seek legislation to revise the current laws to ensure that all school districts that provide transportation services to regular education, special education, or both, are eligible for funding. To ensure that school districts are funded equitably for the Home-to-School program, we also recommended that Education seek legislation to revise the law to ensure that funding is flexible enough to account for changes that affect school districts' transportation programs, such as large increases in enrollment.

*Education's Action: None.*



Education noted that it does not have the resources to identify all school districts that provide transportation services to their students but are not eligible to receive Home-to-School program funds for regular education transportation, special education transportation, or both; and determine the actual costs these school districts incur and the funding sources they use to pay them. It further noted that it submitted a Budget Change Proposal for the fiscal year 2008–09 budget for a new position to, among other things, develop a pupil transportation funding reform proposal. However, Education noted that this proposal was not included in the fiscal year 2008–09 Governor's Budget.

Education was silent regarding any efforts it had taken to seek legislation to revise the law to ensure that all school districts that provide transportation services are eligible for funding and that funding is flexible enough to account for changes that affect school districts' transportation programs.

# California Department of Education

## Although It Generally Provides Appropriate Oversight of the Special Education Hearings and Mediations Process, a Few Areas Could Be Improved

REPORT NUMBER 2008-109, DECEMBER 2008

### *The California Department of Education's and Department of General Services' Office of Administrative Hearings' response as of December 2008*

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine how the Department of General Services' Office of Administrative Hearings (Administrative Hearings) has conducted its operations since it began administering the special education hearings and mediations process. Specifically, the audit committee requested that we review and evaluate applicable laws, rules, and regulations specific to special education hearings and mediations and determine the roles and responsibilities of both the California Department of Education (Education) and Administrative Hearings, including any oversight responsibilities Education has related to Administrative Hearings' performance under the interagency agreement. The audit committee also requested that we make recommendations related to the future provision of special education mediation and adjudication functions, as appropriate.

#### **Finding #1: Education needs to continue to work with Administrative Hearings to ensure that it reports all required information in its quarterly reports and its database contains accurate and complete information.**

Our review of one of Administrative Hearings' quarterly reports for each fiscal year between 2005–06 and 2007–08 found that it had not consistently included in these reports 10 items that the interagency agreement requires. By not ensuring that Administrative Hearings is consistently including all required information in its quarterly reports, Education is unable to review the information as part of its oversight activities, and it is not ensuring that Administrative Hearings complies with the reporting requirements of its interagency agreement and state law.

According to Education, it was aware that Administrative Hearings was not including all the required information in its quarterly reports, and we found some evidence that staff from Education and Administrative Hearings discussed this issue during monthly meetings involving both agencies. In September 2008 the presiding administrative judge for Administrative Hearings indicated that Administrative Hearings has modified the database to include the missing information, beginning with the first quarterly report for fiscal year 2008–09. However, when we later reviewed its first quarterly report, we found that Administrative Hearings was still missing one of the 10 items. It was not until we informed Administrative Hearings that the quarterly report was still missing one item that it amended the quarterly report to include all the required items on November 13, 2008.

#### **Audit Highlights . . .**

*Our review of the California Department of Education's (Education) oversight of the special education hearings and mediations process revealed that:*

- » *The average cost per case closed has increased by 14 percent since the Office of Administrative Hearings (Administrative Hearings) took over the hearings and mediations process.*
- » *The average time the University of the Pacific's McGeorge School of Law took to close cases was 185 days, whereas, Administrative Hearings took an average of 118 days.*
- » *Neither Education nor any other entity tracks the total number and cost of appealed hearing decisions.*
- » *Education could improve its oversight to ensure Administrative Hearings is meeting established standards called for in its interagency agreement.*
- » *Administrative Hearings did not consistently include 10 items, required by the interagency agreement, in its quarterly reports to Education—seven of these items are also required by state law and five of these items must be reported annually to the federal government.*
- » *Administrative Hearings was unable to provide documentation demonstrating that its administrative law judges receive all the training required by state law and the interagency agreement.*
- » *Administrative Hearings has not always issued hearing decisions within the legally required time frame, which could potentially lead to sanctions by the federal government.*

Additionally, our review of Administrative Hearings' new database—Practice Manager—found that the data were inaccurate or missing in certain fields. Specifically, we reviewed a sample of 29 closed cases and found that the reason-for-closure field was inaccurate for one case and missing for another. Additionally, for three cases, one of the following fields were inaccurate: closed within the legally required time frame, case closed date, and case opened date. According to Administrative Hearings, it uses these fields to compile certain data that it includes in the quarterly reports it submits to Education.

To ensure that Administrative Hearings complies with state and federal laws, as well as with the specifications in its interagency agreement, we recommended that Education, in its oversight role, continue to work with Administrative Hearings to ensure that it reports all the required information in its quarterly reports and that its database contains accurate and complete information.

***Education's Action: Partial corrective action taken.***

According to Education, it has been working with Administrative Hearings to ensure that the required information is included in the quarterly reports. Education also indicated that it is exploring options that will further strengthen existing monitoring procedures to ensure that all information, as required in the interagency agreement with Administrative Hearings, is accurate and included in the quarterly reports. For example, it stated that it plans to develop a monitoring checklist to ensure that all required information is received timely from Administrative Hearings. Finally, to further ensure the accuracy of the Administrative Hearings' database, Education plans to review and inspect, on a sample basis, books, documents, papers, and records supporting required information that is contained in Administrative Hearings' quarterly reports.

**Finding #2: Education has not verified that the administrative law judges (administrative judges) are receiving the appropriate training.**

Education has not taken steps to verify that Administrative Hearings is ensuring that its administrative judges receive all the training required by state law and the interagency agreement. Administrative Hearings has reported to Education that its administrative judges have participated in the required training. However, when we selected 15 administrative judges and attempted to verify that they had taken two classes listed in Administrative Hearings' report, we found that Administrative Hearings could not always demonstrate that all 15 had, in fact, taken the two courses.

To ensure that Administrative Hearings complies with state and federal laws, as well as with the specifications in its interagency agreement, we recommended that Education, in its oversight role, require Administrative Hearings to maintain sufficient documentation showing that its administrative judges have received the required training and review these records periodically to ensure that Administrative Hearings complies with the training requirements.

***Education's Action: Pending.***

Education entered into a new interagency agreement with Administrative Hearings effective June 26, 2008, for the period of July 1, 2008, through June 30, 2011, and it requires Administrative Hearings to provide Education with quarterly training logs for each administrative judge and mediator covering training taken during the previous quarter. To ensure accuracy of training data, Education stated that it plans to conduct periodic reviews of documentation supporting the quarterly logs for a sample selection of administrative judges and mediators. It also stated that its review of documentation will include training certificates or similar documentation from the training entity or instructor delineating the course description, date and hours of training, and attendee names.

**Finding #3: Administrative Hearings has not always issued hearing decisions within the legally required time frame.**

Our audit revealed that Administrative Hearings has not always issued hearing decisions within the legally required time frame. For example, Administrative Hearings reported that it issued only 29 percent and 57 percent of its decisions on time in the third and fourth quarters of fiscal year 2005–06, respectively, and it issued on time decisions 72 percent of the time in the first quarter of fiscal year 2006–07. The types of noncompliance related to timeliness of decisions could potentially lead to sanctions by the federal government and affect special education funding for the State. For its part, Education has been raising this issue with Administrative Hearings in letters requesting corrective action plans and during monthly meetings between staff of Education and Administrative Hearings. Administrative Hearings has reported measurable improvements, including that since the second quarter of fiscal year 2006–07 it had only about one late case in each quarter. However, despite this improvement, it needs to issue 100 percent of its hearing decisions on time to ensure that it complies with relevant laws and regulations.

To ensure that Administrative Hearings complies with state and federal laws, as well as with the specifications in its interagency agreement, we recommended that Education, in its oversight role, continue to monitor Administrative Hearings to ensure that it consistently issues hearing decisions within the time frame established in federal regulations and state law so that Education is not exposed to possible federal sanctions.

***Education's Action: Pending.***

Education stated that it concurs with the bureau that Administrative Hearings should issue 100 percent of its hearing decisions on time. It indicated that it will continue to monitor Administrative Hearings to ensure that all hearing decisions are issued within the required time frames established by federal regulations and state law.

