

California State University State Audit on Sexual Harassment Cases

Assembly Higher Education Committee

Background

In April 2022 after multiple exposés in the press regarding the mishandling of sexual harassment cases at CSU campuses, the Legislature requested an audit.

- The scope of the audit included examining the manner in which San Jose State University, Sonoma State University, Fresno State University, and the CSU Chancellor's Office handled sexual harassment complaints since 2018.

- The State audited the CSU in 2014 which made similar findings to the current audit.
- The Board of Trustees hired Cozen O'Conner to conduct an internal investigation into the status of Title IX and Sexual Harassment prevention on campus. The Cozen O'Conner report was released to the public in July of 2023.

Differences between Cozen O'Conner and State Auditor Report:

1. Cozen O'Conner examined all campuses.
2. Cozen O'Conner examined all cases not just those where the respondent was an employee.
3. Cozen O'Conner interviewed students, staff, and employees.

State Audit – Foundations

- The State Auditor examined 40 cases across all three campuses and the Chancellor's office.
 - All 40 cases, the respondent (perpetrator) was an employee.
 - None of the cases examined were federal cases (Title IX) instead the State Auditor examined if the cases followed the CSU's internal procedures.
- Differences between the Federal (Title IX) Track and the CSU Grievance Procedure:
 - CSU grievance procedure does not require a hearing; and,
 - The threshold for what constitutes sexual harassment is much lower than the Federal requirements.

Themes from the CSU Auditor's Report:

1. Lack of oversight and guidance where campuses are conducting investigations in an ad hoc manner.
2. Disciplinary actions are not always implemented despite the findings.
3. The Chancellor's office has not provided oversight or regulation over the implementation of policies.

Lack of oversight and guidance

11 of the 14 cases lacked clear rationale for why they were closed;

7 of the cases where sexual harassment was found to have not occurred lacked reasonableness in the determination;

Half of the 40 cases lacked records; and
2/3 of the 21 investigations exceeded the CSU's timelines.

- Campuses did not reach out to all witnesses before closing cases.
- The CSU does not have a standardized process for the initial assessment of sexual harassment complaints.
- Lack of guidance from the Chancellor's office has led to campuses performing investigations in a manner that does not protect students or staff.
- Lack of guidance has led to each campus having its own interpretation of what constitutes sexual harassment and how cases should be managed.

Lack of Disciplinary Action

Seven cases in which the campus did not initiate nor document appropriate disciplinary or corrective action despite findings.

- There were instances where disciplinary actions were administered due to a violation, but the campuses did not document a rationale.
- Campuses took between four months and five years after investigations to impose disciplinary or corrective action in four cases.
- Campuses take inconsistent approaches in addressing unprofessional conduct that does not rise to sexual harassment levels but is still considered problematic.

No Oversight or Regulation

The current lack of guidance and oversight has resulted in deficiencies and inconsistencies in campuses' investigation of complaints and administration of discipline and corrective action.

- The Chancellor's office does not collect data or conduct a meaningful analysis of sexual harassment trends to implement prevention strategies.
- Various best practices for how to manage sexual harassment cases have been made to campuses by the Department of Justice and the Department of Education, yet none have been implemented across the system.
- There is no statewide guidance for campuses to examine when implementing the CSU's sexual harassment policies.
- The Chancellor's office no longer conducts reviews of campuses' compliance to ensure they are following the sexual harassment policy.

Recommendations

- By July 2024 the Chancellor's office should
 - Provide clearer and more comprehensive expectations for how campuses should perform and document an initial assessment of allegations.
 - Provide guidance to campuses about best practices for initiating, carrying out, and documenting disciplinary actions.
 - Develop procedures or guidance for records management of sexual harassment cases.
 - Establish a process for regularly collecting and analyzing sexual harassment data from all campuses to identify any concerning patterns or trends.
 - Require all campuses to track key dates and timelines related to reports of sexual harassment; and,
 - Should ensure all campuses have adequate resources to conduct investigations.
- By January 2025, the Chancellor's office should establish guidelines for addressing unprofessional or inappropriate conduct.
- To ensure systemwide adoption of best practices the Chancellor's office should provide written guidance to the campuses reflecting comprehensive best practices for preventing, detecting, and addressing sexual harassment.

The CSU agreed to implement the recommendations made by the State Auditor.