

Audit and Advisory Services
401 Golden Shore
Long Beach, CA 90802-4210

Vlad Marinescu
Vice Chancellor and
Chief Audit Officer
562-951-4430
vmarinescu@calstate.edu

May 19, 2021

Dr. Tomás D. Morales, President
California State University, San Bernardino
5500 University Parkway
San Bernardino, CA 92407

Dear Dr. Morales:

**Subject: Advisory Report 20-103A, *Accessibility and Disability Services*,
California State University, San Bernardino**

Per your request, we have completed our advisory review of *Accessibility and Disability Services* and the report is attached for your review. Our review was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* as they pertain to consulting and advisory services.

The campus is not required to formally respond to observations for advisory reviews; however, we recommend that campus management review all observations and take any necessary corrective actions to remediate and/or mitigate the risk(s) associated with the noted observations. Any observations requiring immediate attention were communicated to management during the course of the review.

I wish to express my appreciation for the cooperation extended by the campus personnel during the course of this review.

Sincerely,



Vlad Marinescu
Vice Chancellor and Chief Audit Officer

CSU Campuses

Bakersfield • Channel Islands • Chico • Dominguez Hills • East Bay • Fresno • Fullerton • Humboldt • Long Beach • Los Angeles • Maritime Academy • Monterey Bay
Northridge • Pomona • Sacramento • San Bernardino • San Diego • San Francisco • San José • San Luis Obispo • San Marcos • Sonoma • Stanislaus

ACCESSIBILITY AND DISABILITY SERVICES

Advisory Services Review

California State University, San Bernardino

Advisory Services Report 20-103A

May 19, 2021

EXECUTIVE SUMMARY

PURPOSE AND OBJECTIVES

The president of California State University, San Bernardino (CSUSB) requested that we perform an advisory review of campus compliance with Executive Order (EO) 11111, *CSU Policy on Disability Support and Accommodations*.

Based on discussions with management, the objectives were to evaluate disability support and accommodation activities at the campus, including work performed by the Campus Accessibility Advisory Board (CAAB), the campus transition plan, and follow-up on prior Americans with Disabilities Act (ADA) audit findings. The objectives also involved review of the campus structure, efficiency and effectiveness of operating controls, and compliance with the ADA, EO 11111, and campus policies and procedures.

CONCLUSION

At CSUSB, accessibility services and accommodations appeared to be meeting the needs of students at the campus, and progress was being made to establish a campuswide culture of accessibility, as evidenced by the campus request for an advisory review of the area, the hiring of a new independent ADA compliance officer, and the establishment of the campus institutional equity and compliance group.

Specifically, the campus had completed follow-up on CAAB action items, updated its transition plan, and addressed a multitude of physical access barriers. However, despite these efforts, we still identified opportunities to improve administrative processes and strengthen compliance with the oversight committee, and to improve disability services programs in employment and contracting.

We also identified the need to update the CAAB Charter, including its mission, purpose, and composition, to ensure that they are properly aligned with current practices and guidelines. In addition, to help CAAB move forward in its disability services programs, we made suggestions for improving board oversight, management control, roles and responsibilities, and policies and procedures, and we suggested that disability services and accommodation controls in employee services and contracting be formalized or fully implemented.

A summary of observations noted during the review can be found below under Summary of Observations.

SUMMARY OF OBSERVATIONS

1. GOVERNANCE

OBSERVATION

Governance over the campus accessibility services program required improvement.

The Campus Accessibility Advisory Board (CAAB) was established to provide oversight of the campus disability support services programs and to ensure compliance with EO 1111. Our review identified the need to update the CAAB charter and evaluate the makeup of the board.

Specifically, the board charter had not been updated since June 2012, and management informed us that the mission, purpose, and composition were not in alignment with the current campus mission.

We also noted that the CAAB makeup consisted of 33 positions, which appeared to be excessive and was more than similar boards across the CSU. The average number of board members on comparable boards was around 20.

In addition, we found that 11 of the 33 positions on the board were not filled. This was due in part to the informal process of appointing members to the board via email rather than through formal appointment letters from the campus president, as required by the CAAB charter. Our review also noted that two important positions at the campus, the purchasing director and the new independent ADA representative, were not included on the board.

Finally, we noted that the CAAB had not defined departmental reporting requirements to oversee compliance with state and federal disability requirements in HR and purchasing, including hiring practices, employee accommodations, and public solicitations.

RECOMMENDATION

We recommend that the campus:

- a. Review and update the CAAB charter mission, purpose, and composition. *(Note that the campus updated the CAAB charter in 2020 prior to the completion of our review)*
- b. Evaluate the makeup of the board and determine whether membership is appropriate to meet the needs of the board and disability support services at the campus.
- c. Fill vacant positions, consider adding essential positions to the board, and ensure that appointment letters are issued.
- d. Define departmental reporting requirements to oversee compliance.

2. POLICIES AND PROCEDURES

OBSERVATION

During our review, we noted that agreed-upon corrective actions from an Audit and Advisory Services ADA compliance audit, dated July 28, 2011, were not in place.

Specifically, the campus committed to the development of a policy to address funding, responsibilities, and priorities for non-state-funded or auxiliary ADA projects.

Campus personnel confirmed that the policies were created after the prior ADA audit; however, personnel turnover inhibited effective implementation and retention of the policies.

RECOMMENDATION

We recommend that the campus develop and document policies for funding, responsibilities, and priorities for non-state-funded or auxiliary ADA projects.

3. PROJECT TRACKER

OBSERVATION

The CAAB project tracker did not include the requirements of EO 1111, Section 7, *Disability Support and Accommodation in Contracting*.

As part of the CAAB's efforts to comply with EO 1111, the board created a project tracker to capture all campus directives and progress made toward achieving 100 percent compliance with handling disability services and accommodation requests throughout the campus. However, we noted that the project tracker did not include disability services and accommodation controls in contracting, such as accommodation requirements in performing public solicitation for services.

RECOMMENDATION

We recommend that the campus, in conjunction with the CAAB, update the EO 1111 project tracker to include accommodations in contracting to help establish adequate board oversight over disability support and accommodation in contracting.

4. HR COMPLIANCE

OBSERVATION

HR procedures for supporting employee disability services and accommodations were not updated, and records were not adequately secured, as required by EO 1111.

Specifically, we noted that disability services and accommodations in employment needed improvement in the following areas:

- Written HR procedures and guidelines were still in draft form, and HR practices to validate and provide assistance to employees who request accommodations was informal and/or inconsistent.
- ADA accommodation records were not adequately secured, and HR could not locate any ADA records prior to 2019.
- Staff position descriptions were not documented, and HR roles and responsibilities for maintaining position descriptions were not defined.

After our review, HR leadership made progress with its efforts to build a new department within HR called institutional equity and compliance to better support disability support services.

RECOMMENDATION

We recommend that the campus:

- a. Finalize HR procedures and guidelines and formalize the campus process for assisting employees who request special accommodations.
- b. Adequately secure and maintain HR ADA records.
- c. Document staff position descriptions and HR roles and responsibilities.

5. CAMPUS SOLICITATION AND BIDDING

OBSERVATION

The purchasing solicitation and bidding process had not been formalized as required by EO 1111.

EO 1111 states that any public solicitation process developed by the campus shall be compliant with regulations and guidelines and shall not deny individuals with disabilities the opportunity to participate in the competition for the award of a contract.

In our discussions with the interim purchasing manager, we found that the campus had an informal solicitation process that was handled on a case-by-case basis. Developing formal procedures for this process and assigning staff roles and responsibilities for handling disability services and accommodation requests would help the campus ensure that the solicitation process would not inadvertently deny individuals with disabilities the ability to compete for contracts.

RECOMMENDATION

We recommend that the campus document the purchasing department's solicitation process and assign roles and responsibilities to staff for handling disability services and accommodation requests.

GENERAL INFORMATION

BACKGROUND

CSUSB provides a full range of accommodations and services to students, employees, contractors, and the general public. This is accomplished by providing direct service support to individuals; maintaining accessibility standards throughout the campus; and providing adaptive technology, assessments, test accommodation, and a variety of other services. In August 2019, the campus hired a new associate vice president (AVP) of HR and co-chief diversity officer. The AVP assumed the role of ADA compliance officer in November 2019 to help to ensure that CSUSB complies with all ADA regulations.

The Office of Services to Students with Disabilities (SSD) was established to provide students accommodations that ensure equal access to learning and equal opportunity for academic success. SSD works with its student advisory board as well as CSUSB faculty and staff to raise campuswide awareness of issues related to disability, accessibility, and equity. The SSD is governed by a CAAB that provides campus oversight to ensure compliance with the requirements of *The California State University Board of Trustees Policy on Disability Support and Accommodations* (EO 1111) and the *Policy for the Provision of Accommodations and Support Services to Students with Disabilities* (Coded memorandum Academic Affairs 2014-08).

CAAB-required positions include the campus ADA compliance officer, associate vice president for human resources, director of services to students with disabilities, associate vice president for facilities planning and management, and accessible technology coordinator. Additional CAAB membership is composed of students, faculty, and staff, all of whom are appointed by the campus president. Campus management expressed interest in reviewing disability services and accessibility and wanted to ensure that the campus was moving its programs in the right direction to reduce its exposure to risk of noncompliance with disability regulations.

SCOPE

The scope of the engagement included a review of campus accessibility structure and disability services and accommodations in student services, employment, and contracting, as well as the assessment of physical access barrier plans for compliance. The review focused on procedures in effect at the time of our review, with test samples taken from July 1, 2018, through February 29, 2020.

We gained an understanding of campus practices and procedures through discussions with management and a review of available documentation. Based on this understanding, we developed a review program that included a combination of analytical and detailed testing procedures.

We initially visited the CSUSB campus; however, due to COVID-19 pandemic travel restrictions, we performed the majority of our fieldwork remotely. Our review and evaluation included the compliance tests we considered necessary in determining whether operational and administrative controls are in place and operative at both CSUSB campuses.

Specifically, we reviewed and tested:

- Organizational roles and responsibilities for ensuring compliance with Section 504 of the Rehabilitation Act, ADA, and other regulations related to the provision of support to disabled students.
- Policies and procedures for the administration of departments and programs supporting disability services and accommodations, including those that describe and enforce grievance procedures when discrimination is alleged.
- Processes to compile information and verify disabilities and to provide reasonable and appropriate accommodation based on verified need.
- The grievance and complaint process, to ensure that concerns are captured, recorded, and addressed in accordance with campus and system policy.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls changes over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, and management overrides. Establishing controls that would prevent all these limitations would not be cost-effective; moreover, an advisory review may not always detect these limitations.

CRITERIA

This advisory review was conducted in conformance with the Institute of Internal Auditors' (IIA) *International Standards for the Professional Practice of Internal Auditing* as they pertain to consulting and advisory services. This was not an audit or assurance engagement.

The IIA defines consulting services as follows: "Consulting services are advisory in nature and are generally performed at the specific request of management. The nature and scope of the consulting engagement are subject to agreement with management."

This review emphasized, but was not limited to, compliance with:

- 28 Code of Federal Regulations (CFR) Part 35, *Nondiscrimination on the Basis of Disability in State and Local Government Services*
- 34 CFR Part 104, *Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance*
- ADA of 1990
- ADAAA of 2008
- Education Code §67300, *Disabled Student Services*
- Coded memorandum Academic Affairs (AA) 2014-08, *Policy for the Provision of Accommodations and Support Services to Students with Disabilities*
- AA 2014-08, *Services to Students with Disabilities*
- AA 2006-41, *Access to Electronic and Information Technology for Persons with Disabilities*
- AA 2015-22, *Accessible Technology Initiative*
- EO 1111, *Policy on Disability Support and Accommodations*
- EO 1111 Appendix, *Policy on Disability Support and Accommodations*

ADVISORY TEAM

Assistant Vice Chancellor: Mike Caldera

Advisory Manager: Dane MacDonald

Senior Advisory Services Consultant: Dominick Owens