

University of Texas at San Antonio

Compliance Assessment Results

April 2019



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Report delivered to:

- Dr. Taylor Eighmy, President
- John Danner, Interim Chief Legal Officer
- Suzanne Patrick, Director, Equal Opportunity Services, Title IX Coordinator
- Maria Perez, Senior Compliance Management Analyst, Institutional Compliance & Risk Services, Former Interim Director, Equal Opportunity Services, Title IX Coordinator
- James Weaver, Executive Director of Institutional Compliance and Risk Services, Compliance Officer

Executive Summary

Summary Observations and Recommendations

Overall, we concluded there is an opportunity to strengthen the processes and infrastructure related to Title IX compliance at the University of Texas at San Antonio (UTSA or the University). In reviewing the University's Title IX administration, we noted strengths related to the University's positive tone at the top regarding sexual misconduct, experienced Equal Opportunity Services (EOS) investigators, innovative use of technology for campus safety, and implementation of a mandatory training module with customization for specific groups of students. Additionally, during the course of this engagement, UTSA has retained a permanent Title IX Coordinator and has indicated that the University already implemented changes to address some of the recommendations below. Baker Tilly noted several updates to policies, procedures, and resources presented on the University's Title IX website (included in a separate memorandum dated January 22, 2019). Additionally, below we summarize high and medium risk opportunities for improvement¹:

- **Determination of Title IX Violation:** Reassigning the responsibility for making a final determination of whether the policy was violated to the Director of EOS and Title IX Coordinator (EOS Director) or a Hearing Officer to clarify roles.
- **Determination of Sanctions:** Updating the Handbook of Operating Procedures 9.24 Sexual Harassment and Sexual Misconduct to clarify that the Division of Student Affairs (Student Affairs) and/or Student Conduct and Community Standards (SCCS) are responsible for determining sanctions.
- **Written Notification to Respondent:** Providing sufficient detail in notices of investigation for Respondents, such as the identities of the parties involved and the alleged conduct.
- **Complainant and Respondent Review of Evidence:** Providing both the Complainant and Respondent with an opportunity and sufficient time to review and respond to the full investigation report and evidence gathered prior to providing a recommended finding, in line with interim Title IX guidance issued in September 2017.
- **Justification for Finding:** Including the justification for the determination of responsibility on finding letter templates, in line with interim Title IX guidance issued in September 2017.
- **Anonymous Complaints:** Developing formal policies and procedures that provide guidance to EOS personnel for tracking and responding to anonymous complaints to enable consistent responses, documentation, and follow-up.
- **Office of Student Advocacy, Violence Prevention, and Empowerment (OSAVPE):** Determining whether OSAVPE should be a confidential resource and serve respondents, and what role OSAVPE will play in the Title IX process and infrastructure, to allow for the office to begin serving the University community.
- **Notification to EOS:** Implementing automated controls to escalate potential Title IX incidents to EOS, SCCS, and other stakeholders.

¹ High risk items indicate the highest priority and should be addressed immediately. Medium risk items represent process improvements and should be addressed after the high-priority recommendations. Low risk items represent leading practices and can be addressed in the longer term.

Summary Observations and Recommendations, *cont.*

- **Completeness of Case Documentation:** Implementing a case management system to centrally store complaint-related documents and performing periodic audits on a sample basis to validate completeness of documentation.

Baker Tilly's recommendations were based on Title IX guidance in place as of September 2017²; however, during the course of the review, the Department of Education released proposed regulations on November 29, 2018. Although the proposed regulations have not yet been finalized, UTSA will need to consider the impact of regulatory updates as the University continues to implement changes to its Title IX processes (see **Appendix C** for a summary of proposed changes to Title IX guidance).

Additionally, we outlined recommendations for incorporating Title IX case management software into the University Title IX process in areas such as receipt of complaints, investigation, case monitoring, case resolution, and document retention.

Background and Objectives

Baker Tilly performed a comprehensive review of the University's Title IX policies and process, as well as any proposed revisions, for investigating and resolving all Title IX complaints, including the sanctioning process for faculty, staff, and students. The goal of the review and related recommendations was to help the University establish an exemplary process for resolving all Title IX complaints fairly, effectively, and efficiently in a manner that assures a smooth integration between University departments and an effective communications loop that prevents undue delays in case resolution.


Our objectives included:

- Determining whether policy documentation is compliant with Title IX requirements and reflective of leading practices in university Title IX administration;
- Assessing whether Title IX processes follow documented policies and procedures; and,
- Evaluating potential reporting structures for the Title IX office.

Scope and Approach

We collaborated with management to refine the approach in the following areas:

² Guidance in place as of September 2017 includes the Dear Colleague Letter dated September 22, 2017; the Questions & Answers (Q&A) on Campus Sexual Misconduct dated September 22, 2017; the Dear Colleague Letter issued January 25, 2006, and the Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties issued January 2001.



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- Reviewed current Title IX documentation (i.e., policies, procedures, website, training materials) to understand extent of current state documentation (see **Appendix A** for a list of documentation reviewed) and consistency between the University’s policies, compliance requirements, and leading practices in areas such as:
 - Overall policy compliance with publicly issued guidance (e.g., definitions, identification of Title IX Coordinators);
 - Dissemination of the University’s Notice of Nondiscrimination;
 - Publishing of complaint and grievance procedures;
 - The University’s public Title IX website and related resources, including:
 - Consistency of published information;
 - Clarity of information available to both survivors and alleged perpetrators, including students, faculty, and staff;
 - Alignment with leading practice and regulatory guidance for Title IX resources (e.g., confidential resources, responsible employees, due process);
 - Training initiatives and programs, including:
 - Content of presentation;
 - Participants of the presentation (e.g., faculty, staff, students); and
 - Timing (e.g., annual training, as part of new employee orientation).
- Interviewed a sample of key personnel involved in Title IX administration to understand Title IX governance, collaboration amongst key process owners, and compliance with documented processes and current practices, and obtain perspectives to inform a recommended structure for the Title IX office (see **Appendix B** for a list of personnel interviewed), focusing on areas such as:
 - Publication and dissemination of Title IX policies and procedures;
 - Provision of adequate, reliable and impartial investigation of complaints;
 - Provision of designated and reasonably prompt time frames, taking into account the University’s good faith effort to conduct a fair and impartial investigation;
 - Provision of written notice of outcome;
 - Education and prevention (e.g., campus climate surveys, bystander intervention); and
 - Remediation and enforcement.
- Tested a sample of 25 complaints related to sexual discrimination, harassment, retaliation, and assault originating from different sources (e.g., faculty, staff, students) and University departments (e.g., Office of the Vice President for Student Affairs [Student Affairs], Housing and Residence Life) to determine whether the intake process and actions taken to resolve complaints were in compliance with University policies and procedures and Title IX requirements, and identify gaps and/or opportunities for improvement within the University’s investigation and resolution of complaints.

Observations and recommendations related to our review of the University’s public-facing Title IX resources and Title IX policies and procedures were delivered separately to the University Attorney.

Strengths

During our review, we noted the following strengths:

- **Strong Tone at the Top** – President Eighmy has set a positive, proactive tone regarding sexual misconduct. The President’s communications to the University community reiterate that sexual misconduct will not be tolerated, and the President has encouraged individuals to contact EOS to revisit cases that were closed in the past. Additionally, in early 2018, President Eighmy requested an external review of all Title IX operations. UTSA engaged Baker Tilly to perform the review starting in August 2018. Lastly, UTSA joined the Culture of Respect Collective in January 2019, which is a cohort of colleges and universities dedicated to ending campus sexual violence. Examples of messages from the Office of the President include:
 - President’s Initiative on Preventing Sexual Assault and Misconduct (February 11, 2019)
 - Campus Incident Updates (December 10, 2018)
 - Sexual Assault Investigation (November 20, 2018)
 - President Eighmy Declares Zero Tolerance on Sexual Misconduct (November 20, 2018)
 - Our Commitment to Preventing Sexual Misconduct (August 28, 2018)
 - Message and Follow-up Regarding Campus Consensual Relationships (May 24, 2018, and June 19, 2018)
 - Preventing Sexual Misconduct/Department of Title IX Services (February 20, 2018)
 - Establishment of the Office of Student Advocacy, Violence Prevention and Empowerment to Expand the Staffing Resources Needed to Address Sexual Misconduct Prevention and Victim Advocacy at UTSA (February 1, 2018)
 - Results of Comprehensive Survey on Sexual Assault and Sexual Harassment on Campus (March 1, 2017)
- **EOS Investigators** – EOS has both a male and female investigator for Title IX matters, which is a leading practice that can reduce the appearance of potential bias. Additionally, the EOS Investigators have individual backgrounds in law enforcement, student conduct, and Human Resources discrimination and Title VII, which can be leveraged when performing Title IX investigations.
- **LiveSafe Smartphone Application** – The LiveSafe application managed by the UTSA Police Department (UTSA PD) provides students with several safety-related functionalities, including discussion boards that connect students with the University and a virtual escort feature that allows students to video-chat with a friend/family member while they are walking on and around campus.
- **Training** – UTSA implemented annual, University-wide training on Title IX. Students receive training through an EVERFI course used by various higher education institutions that includes topics such as healthy relationships, sexual assault, consent, and bystander intervention, as well as interactive exercises and potential scenarios. UTSA also delivers specific Title IX training modules, which are compliant with the National Collegiate Athletic Association (NCAA) Board of Governors Policy on Campus Sexual Violence, for student-athletes and graduate students.

Detailed Report

Observations and Recommendations

Below we present observations and recommendations related to Title IX governance and compliance at UTSA based on the processes in place as of September 2018. The observations and recommendations are prioritized as follows:

Priority	Definition
High	These recommendations are the highest priority and should be addressed immediately.
Medium	These recommendations represent process improvements and should be addressed after the high-priority recommendations.
Low	These recommendations represent leading practices and can be addressed in the longer term.

Appendix C includes considerations for adjusting UTSA's processes in light of proposed changes to Title IX guidance.

1. Determination of Title IX Violation	
Observation	<p>There are currently several points throughout the Title IX process at which various parties make determinations. This has resulted in confusion in the past regarding which party has the authority to make final determinations regarding policy violations. As described in Handbook of Operating Procedures 9.24 Sexual Harassment and Sexual Misconduct and the Student Code of Conduct:</p> <ul style="list-style-type: none"> - After completing an investigation, EOS issues a written report that includes “a recommendation of whether a violation of the policy occurred [and] an analysis of the facts discovered during the investigation...” - Then, EOS provides a summarized report to the Senior Associate Vice President for Student Affairs (Senior AVP for Student Affairs) or a designee, who will either: <ul style="list-style-type: none"> - Notify both parties that a review is in process; - Request for EOS to perform further investigation; - Dismiss the complaint; or - “Find that the policy was violated.” - Lastly, if the Complainant or Respondent requests a formal hearing following the determination by Student Affairs, “the charges shall be heard and determined by a fair and impartial Hearing Officer.” The Student Code of Conduct defines a Hearing Officer as, “an individual... to hear disciplinary charges, make findings of fact, and upon a finding of responsibility, impose an appropriate sanction(s).” <p>In the past, rather than independently evaluating Title IX cases, Student Affairs typically reiterated the EOS Director’s recommended finding when determining whether the policy was violated based on guidance previously provided by EOS and Legal Affairs.</p>
Recommendation	<p>EOS and Student Affairs should clarify the roles and responsibilities of all individuals/offices involved in the Title IX process. Additionally, UTSA should consider adjusting the Title IX process to:</p> <ul style="list-style-type: none"> - Assign the responsibility for making a policy violation determination to the EOS Director - Assign the responsibility for determining sanctions to Student Affairs <p>For instances in which either party wishes to proceed to a hearing, the Hearing Officer can determine whether the policy was violated and assign sanctions. If the Title IX Coordinator is making determinations of policy violation, the Title IX Coordinator cannot be solely responsible for the investigation process to avoid the appearance of a “single investigator” model (see Appendix C for the impact of recent proposed guidance on roles and responsibilities for determining findings).</p>
Priority	High

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1. Determination of Title IX Violation

Management Action Plan	<p>Plan: We agree that consistent training including trauma informed practices would be beneficial for all parties involved in Title IX cases including EOS, SCCS, Student Affairs and Hearing Officers.</p> <p>Estimated Completion Date: August 2019</p> <p>Owner: EOS will work to coordinate training</p>
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2. Determination of Sanctions

Observation	The Handbook of Operating Procedures 9.24 Sexual Harassment and Sexual Misconduct currently states that after completing an investigation, EOS issues a written report that includes “recommended disciplinary action if a violation of the policy occurred.” However, in practice, Student Affairs and/or SCCS determine sanctions when a violation of Title IX policy occurs.
Recommendation	EOS and Student Affairs should update the Handbook of Operating Procedures 9.24 Sexual Harassment and Sexual Misconduct to clarify that Student Affairs and/or SCCS are responsible for determining sanctions to better reflect the current process and avoid the appearance of a single individual making determinations regarding both findings and disciplinary action.
Priority	High
Management Action Plan	<p>Plan: EOS will work with the appropriate parties to review and clarify this portion of the HOP.</p> <p>Estimated Completion Date: August 2019</p> <p>Owner: EOS</p>

3. Written Notification to Respondent

Observation	<p>The University’s initial notification to the Respondent regarding a complaint does not contain sufficient detail for the party to respond to the complaint based on documentation reviewed for the time period of September 29, 2016, through August 31, 2018.</p> <p>The 2017 Q&A on Campus Sexual Misconduct issued by the Department of Education’s Office of Civil Rights (2017 Q&A) states that the responding party must be given written notice of the allegations constituting a potential violation of a university’s sexual misconduct policy, including sufficient details (e.g., identities of the parties involved, the specific code of conduct violated, the conduct alleged, the date and location) and time to prepare a response before any initial meeting.</p>
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3. Written Notification to Respondent	
Recommendation	EOS should create a template for written notification to the Respondent that includes the elements of sufficient detail described above, as well as any other relevant information (e.g., prohibition of retaliation and how to report instances of retaliation, information about interim measures, as necessary). See Appendix C for the impact of recent proposed guidance on notifications to Respondents.
Priority	High
Management Action Plan	<p>Plan: Respondent letter was updated in October 2018.</p> <p>Estimated Completion Date: Complete – October 2018</p> <p>Owner: EOS</p>

4. Complainant and Respondent Review of Evidence	
Observation	<p>The Complainant and Respondent do not have the opportunity to review the evidence, witness statements/interviews, and the full investigation report until after the EOS Director has made a recommendation of whether a violation of policy occurred (i.e., a recommended finding).</p> <p>According to the 2017 Q&A, both the Complainant and Respondent shall be given the opportunity to respond to the evidence, review witness statements/interviews, and receive the full investigation report in writing in advance of the decision of responsibility and/or a live hearing to decide responsibility.</p> <p>The current review of the investigation report by the Complainant and Respondent does, in fact, occur prior to the appropriate Vice President (for employees) or Student Affairs (for students) making a determination and conducting any potential hearing. However, confirming that the information in the investigation report is accurate prior to making a recommended finding allows for EOS to have more complete information when making a recommendation, and for the Complainant and Respondent to perceive that their feedback was incorporated when making the recommended finding. Additionally, EOS may be better positioned than Student Affairs to consider the comments provided given their more direct involvement with the investigation and the evidence gathered.</p>

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4. Complainant and Respondent Review of Evidence	
Recommendation	<p>After completing the draft investigation report and prior to determining a recommended finding, the EOS Director should:</p> <ul style="list-style-type: none"> – Provide both the Complainant and Respondent with an opportunity and sufficient time to review and respond to the full investigation report, evidence gathered, and witness statements; and, – Revise the report based on the feedback provided, as necessary, prior to finalizing the report and providing a recommended finding to the appropriate Vice President for Student Affairs. <p>See Appendix C for the impact of recent proposed guidance on review of evidence.</p>
Priority	High
Management Action Plan	<p>Plan: EOS will work with Legal Affairs and SCCS to reevaluate the report comment process that is currently provided to the Complainant and Respondent to ensure this process is appropriately aligned with Title IX guidance.</p> <p>Estimated Completion Date: December 2019</p> <p>Owner: EOS and SCCS</p>

5. Justification for Finding	
Observation	<p>When sending the finding letter to the Complainant and Respondent, the notification does not contain a justification for the finding based on documentation reviewed for the time period of September 29, 2016, through August 31, 2018.</p> <p>According to the 2017 Q&A, the University shall provide written notice of the outcome of disciplinary proceedings to both parties concurrently, and such notification shall include any initial, interim, or final decision by the institution; any sanctions imposed by the institution; and the rationale for the result and the sanctions.</p>
Recommendation	<p>SCCS should update its finding letter templates to include the justification for the finding. Consider implementing review of the finding letter by Legal Affairs to validate that the justification is presented in a factual, unbiased manner.</p>
Priority	High

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5. Justification for Finding	
Management Action Plan	<p>Plan: EOS will work with SCCS and Legal Affairs to ensure notification letters include appropriate details/support.</p> <p>Estimated Completion Date: August 2019</p> <p>Owner: EOS, SCCS, and Legal Affairs</p>

6. Anonymous Complaints	
Observation	EOS does not have a consistent process in place for responding to anonymous complaints. Previously, anonymous complaints received by phone were not tracked in the Excel spreadsheet used by EOS to monitor complaints, whereas ones received by email were, and anonymous complaints were generally not investigated prior to Fall 2017.
Recommendation	<p>Develop formal policies and procedures that provide guidance to EOS personnel for tracking and responding to anonymous complaints, including:</p> <ul style="list-style-type: none"> - How to log anonymous complaints received by phone and email in the tracking system; - Follow-up to conduct with the complainant, if possible (e.g., responding to the email to see if the individual is willing to provide more information); - Initial steps that can be taken to investigate the complaint (e.g., reviewing University video camera footage or emails); - How to assess patterns and trends in anonymous complaints to inform a potential investigation (e.g., multiple anonymous complaints involving the same person or department); and - How to document the resolution of an anonymous complaint in the tracking system.
Priority	Medium
Management Action Plan	<p>Plan: This has been addressed – all anonymous complaints are logged into the spreadsheet. Even if there is not enough detail to investigate, this does provide the opportunity to track and monitor matters for Title IX Compliance.</p> <p>Estimated Completion Date: Complete – May 2018</p> <p>Owner: EOS</p>

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7. Office of Student Advocacy, Sexual Violence Prevention, and Empowerment	
Observation	<p>We noted several opportunities to clarify the role of OSVPE, an advocacy office created based on recommendations from the Cultivating Learning and Safe Environments (CLASE) study conducted by The University of Texas at Austin’s Institute on Domestic Violence & Sexual Assault and issued in Spring 2017:</p> <ul style="list-style-type: none"> – UTSA has not determined whether OSVPE will be considered a confidential resource or will be required to report Title IX complaints to EOS. This presents the risk that a student may disclose an incident to OSVPE believing that the office can maintain confidentially, when in fact, OSVPE personnel may be Responsible Employees who are required to report potential Title IX violations to the University (see Appendix C for the impact of recent proposed guidance on mandatory reporting). – Title IX guidance provides that Complainants and Respondents should receive resources that do not favor one party over the other. OSVPE provides advocacy services to Title IX Complainants, but does not offer similar advocacy services to Respondents. Student ombudspersons (outside of OSVPE) are designated as Respondent advocates. This can create the appearance that both parties do not receive equal treatment. – OSVPE’s role in the current Title IX infrastructure (e.g., who should be referred to the office and when, how and when they collaborate with other offices) has not been defined, presenting the risk that members of the University community are not referred to or aware of the services OSVPE offers.
Recommendation	OSVPE, EOS, Legal Affairs, and Institutional Compliance & Risk Services should collaborate to determine whether OSVPE should be a confidential resource and serve respondents, and what role OSVPE will play in the Title IX process and infrastructure. These determinations should be documented and disseminated on the OSVPE website and/or via email to the University community.
Priority	Medium

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7. Office of Student Advocacy, Sexual Violence Prevention, and Empowerment

<p>Management Action Plan</p>	<p>Plan: It has been determined that OSAVPE will serve as a confidential resource for Complainant and the University and Student Ombuds will offer services to Respondents. OSAVPE and EOS will work with the HOP coordinator to get this officially updated in university policy.</p> <p>Additionally, OSAVPA will continue to work with stakeholders on campus (including but not limited to EOS, the President’s Sexual Misconduct Task Force, and Student Affairs) to clarify the purpose and function of the advocacy services within the scope of the university.</p> <p>Estimated Completion Date: HOP update targeted for completion by August 2019. Expanding and updating scope of office services will be ongoing as part of President Initiative on Preventing Sexual Assault and Misconduct.</p> <p>Owner: OSAVPE</p>
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8. Notification to EOS

<p>Observation</p>	<p>There are manual controls in place to flag police incidents for referral to EOS, including issuance of command summaries to senior leadership and EOS, escalation by officers to the Associate Vice President of Public Safety and Chief of Police (Chief of Police) of potential Title IX matters, review of briefings for each shift by the Chief of Police, and weekly meetings with relevant University groups. Relying on manual controls contributes to the risk that a Title IX matter reported to UTSA PD may not reach EOS for potential investigation.</p>
<p>Recommendation</p>	<p>UTSA PD should consider implementing automated controls to escalate potential Title IX incidents to EOS, SCCS and other stakeholders. Title IX case management software can be customized to route reports to the appropriate personnel for follow-up based on the content of the report (see the Title IX Case Management System Capabilities and Recommendations section below for more detailed suggestions for use of Title IX case management software to route complaints).</p>
<p>Priority</p>	<p>Medium</p>
<p>Management Action Plan</p>	<p>Plan: EOS Director attends weekly Behavioral Intervention Team (BIT) meetings and EOS staff attend weekly student conduct group meetings. Additionally, UTSAPD and BIT have implemented Maxient within their areas, which should address this item.</p> <p>Estimated Completion Date: Complete – January 2019</p> <p>Owner: UTSA PD and EOS</p>

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9. Incomplete Case Documentation	
Observation	Baker Tilly identified several instances during sample testing of incomplete case documentation. Incomplete case documentation could impact the University's ability to fully respond to any external inquiries regarding a particular case and contribute to the risk that Title IX processes may not be consistently followed.
Recommendation	UTSA is evaluating the implementation of a Title IX case management system that would improve the University's ability to maintain case documentation (see the Title IX Case Management System Capabilities and Recommendations). In the event that such a system is implemented, EOS and SCCS (for complaints that proceeded to hearing) should use the case management system to store all relevant case documentation (e.g., intake forms, email correspondence, investigation reports, notifications to both parties, evidence, police reports). A periodic audit of case files on a sample basis would also help confirm that documentation was appropriately stored for the full complaint resolution process.
Priority	Medium
Management Action Plan	<p>Plan: Maxient has been implemented on campus and SCCS is working to implement a checklist within the Maxient workflow process. Additionally, EOS has implemented an internal checklist for reference.</p> <p>Estimated Completion Date: August 2019</p> <p>Owner: EOS and SCCS</p>

10. Timeliness	
Observation	<p>During sample testing of complaints with incident dates ranging from September 29, 2016, through August 31, 2018, Baker Tilly identified instances in which the process to resolve a complaint took longer than 60 days.</p> <p>While there is no longer a U.S. government-required timeframe for Title IX investigations, Title IX guidance states that grievance procedures should provide for designated and reasonably prompt timeframes for the major stages of the complaint process, taking into consideration the complexity of the investigation and the severity and extent of the harassment in determining timeliness.</p> <p>Baker Tilly also noted a positive practice related to timeliness: one sample tested contained documentation in the case file justifying the reason for the delay and requesting approval from Legal Affairs.</p>

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10. Timeliness	
Recommendation	EOS should document any reasons for delays and communicate with the Complainant and Respondent, as necessary, to keep them apprised of timing. See the Title IX Case Management System Capabilities and Recommendations section below for more detailed suggestions for how Title IX case management software can be used to monitor the status and timeliness of cases.
Priority	Low
Management Action Plan	<p>Plan: The EOS Office is now fully staffed and EOS has put further controls in place to seek guidance from Legal Affairs in cases that may go beyond 60 days.</p> <p>Estimated Completion Date: Complete – December 2018</p> <p>Owner: EOS</p>

11. Notification of Appeal	
Observation	There is not a defined process in place for notifying the other party when either the Complainant or Respondent files an appeal. Additionally, Baker Tilly noted one instance in which it took 36 days (i.e., longer than the 30 days stated in the Student Code of Conduct) to evaluate and respond to an appeal. Transparency and timely evaluation of appeals are important factors for effectively resolving complaints.
Recommendation	The Office of the Vice President for Student Affairs (VPSA) should create a template for informing the opposite party of any appeals and incorporate this notification into its appeal procedures. Additionally, VSPA should document any reasons for delays when evaluating appeals and communicate with the Complainant, Respondent, and SCCS as necessary, to keep them apprised of timing.
Priority	Low
Management Action Plan	<p>Plan: VPSA is currently reviewing processes as they continue to transition to Maxient. As such, additional opportunities will be explored to incorporate these recommendations as part of the standard Maxient workflow.</p> <p>Estimated Completion Date: August 2019</p> <p>Owner: SCCS and VPSA</p>

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12. Title IX Case Management	
Observation	Currently, EOS tracks the status of Title IX cases using an internally developed Excel spreadsheet, which does not have the robust security, routing, and reporting capabilities of a dedicated software solution. Additionally, all case files are maintained in paper format, which is a manual process and presents inherent risk of unauthorized access or accidental loss or destruction.
Recommendation	UTSA is evaluating the implementation of a Title IX case management system to better track Title IX complaints and the related documentation (see the Title IX Case Management System Capabilities and Recommendations section below for more detailed suggestions for incorporating this type of software into UTSA's existing processes).
Priority	Low
Management Action Plan	<p>Plan: EOS has implemented a portion of Title IX cases into Maxient, including linking the online submission form for students. In addition EOS is looking to implement an internal case management system, such as Advocate GME, which will offer robust tracking and case management for all EOS files.</p> <p>Estimated Completion Date: Complete – January 2019 (Maxient Implementation). Full case system targeted for August 2019.</p> <p>Owner: EOS</p>

Title IX Case Management System Capabilities and Recommendations

Below we present opportunities to incorporate a Title IX case management software into UTSA's Title IX processes:

Step in Title IX Process	Recommendation for Incorporating Software
<p>1. Receipt of a Complaint</p>	<ul style="list-style-type: none"> - Members of the University Community can submit complaints using an online form that are then automatically incorporated into Title IX case management software, including background information, identification of involved parties, a narrative, and any supporting documentation (e.g., photographs, screenshots). - When a new report is submitted, Title IX case management software can be customized to route the report to the appropriate personnel (e.g., UTSA PD; Assistant Director, Equal Opportunity Services, Deputy Title IX Coordinator; EOS Director) for follow-up based on the content of the report.
<p>2. Investigation</p>	<ul style="list-style-type: none"> - Title IX case management software can send and store notifications to Complainants, Respondents, and witnesses (e.g., interview scheduling, invitation to review an investigation report), allowing EOS to maintain communications with the parties in one location. - Forms (e.g., intake forms), checklists, investigation report templates, letter templates (e.g., final finding letters) can be stored within Title IX case management software, enabling existing tools to be used consistently across cases.
<p>3. Monitoring</p>	<ul style="list-style-type: none"> - Title IX case management software centrally tracks complaints and allows users to generate reports showing case status, which can be used during discussions (e.g., regular meetings with the EOS Director and Assistant Director, Equal Opportunity Services, Deputy Title IX Coordinator) to monitor progress and timeliness of case resolution. - Title IX case management software standardizes various inputs (e.g., capturing individuals involved in a case based on University identification numbers, selecting the specific section of the Student Code of Conduct that was violated), which allows the University to more consistently monitor trends, identify individuals with repeated complaints, etc. - Title IX case management software offers a custom reporting engine that generates analytics, which can be used to evaluate various metrics (e.g., timeliness of case resolution, volume of complaints, trends in complaints).
<p>4. Resolution</p>	<ul style="list-style-type: none"> - Title IX case management software can house the templates for final investigation reports, and pre-populate certain fields within the report (e.g., identifying the Complainant, Respondent, and Investigator), thereby improving consistency across complaints. - Final determinations of responsibility can be distributed to both the Complainant and Respondent simultaneously through the system, enabling prompt notification.

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Step in Title IX Process	Recommendation for Incorporating Software
5. Document Retention	<ul style="list-style-type: none">- Title IX case management software can serve as the system of record for all Title IX cases, with unlimited storage to host all documentation associated with a given case (e.g., final investigation report, police reports, interview notes, hearing transcripts, notifications and communication with both parties, and evidence such as text messages, emails, and photographs).- Title IX case management software offers customized security profiles that can restrict access to Title IX files for viewing and editing only by authorized individuals.- Title IX case management software logs all user activity with an extensive audit trail.

Appendices

Appendix A: Documentation Reviewed

The following documentation was reviewed as part of the assessment:

- Athletic Staff Title IX Prevention Training Course
- Campus Climate Survey 2015
- Complainant Hearing Template 2018
- Cultivating Learning and Safe Environments 2017
- Determination of Action Template 2017
- Handbook of Operating Procedures: 2.13 Termination and Nonreappointment of a Tenured or Tenure-Track Faculty Member
- Handbook of Operating Procedures: 3.03 Discipline and Dismissal of Classified Employees
- Handbook of Operating Procedures: 9.01 Nondiscrimination
- Handbook of Operating Procedures: 9.24 Sexual Harassment and Sexual Misconduct
- Office of Equal Opportunity Process Map
- Office of Equal Opportunity Service Complaint Form
- Office of Equal Opportunity Summary Report Form
- Office of Equal Opportunity/Student Conduct and Community Standards Casework
- President's Task Force on Preventing Sexual Assault on Campus Website
- President's Task Force on Preventing Sexual Violence on Campus Final Report
- Respondent Hearing Template 2018
- Rule 31008: Termination of a Faculty Member
- Sample Title IX Hearing Questions 2018
- Student Athlete Title IX Training
- Student Code of Conduct
- The Culture of Respect CORE Blueprint: A Strategic Roadmap for Addressing Campus Sexual Assault
- Title IX Case List
- Title IX Overview Conduct Process
- Title IX Video Shown During New Student Orientation
- Undergraduate Sexual Assault Prevention Online Training

Appendix B: Personnel Interviewed


The following personnel participated in individual or group interviews:

- Camille Cartwright, Equal Opportunity Investigator
- John Danner, Interim Chief Legal Officer
- Joshua Daume, Associate Athletic Director for Compliance
- Dr. Taylor Eighmy, President
- Samuel Gonzales, Vice President for Student Affairs
- Dr. Melissa Hernandez, Director, Counseling Services
- Anne Jimenez, Associate Dean of Students
- Gerald Lewis, Associate Vice President for Public Safety and Chief of Police
- Esther Miller-Brown, Assistant Director, Equal Opportunity Services, Deputy Title IX Coordinator
- Christine Moeller, Senior Associate Athletics Director for Student-Athlete Welfare and Senior Woman Administrator
- Jessica Muniz, Director and Prevention Coordinator, OSAVPE
- Suzanne Patrick, Director, Equal Opportunity Services, Title IX Coordinator
- Maria Perez, Senior Compliance Management Analyst, Institutional Compliance & Risk Services, Former Interim Director, Equal Opportunity Services, Title IX Coordinator
- Kevin Price, Senior Associate Vice President for Student Affairs and Campus Services
- Kurt Schoessler, Equal Opportunity Investigator
- James Weaver, Executive Director of Institutional Compliance and Risk Services, Compliance Officer

Appendix C: Considerations Based on Proposed Changes to Title IX Guidance

The Department of Education released the “Proposed Rule Regarding Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance” (proposed regulations) on November 29, 2018. The proposed regulations were open for a public comment period, which closed in January 2019. Although these proposed regulations have not been finalized, key items addressed in the proposed regulations, which reiterated and clarified some aspects of previously issued Title IX guidance, include:


- **Standard for response:** Schools will be held to a “deliberately indifferent” standard when deciding if they responded appropriately, meaning that the school’s response cannot be clearly unreasonable in light of the known circumstances.
- **Location of incidents:** Schools are only responsible for responding to conduct that occurs within its education program or activity, which includes all of the operations of the school. The policy and grievance procedures do not apply to persons outside of the United States.
- **Actual knowledge and applicability:** Schools are only responsible for investigating “formal complaints,” which are defined as a complaint made to an “official who has the authority to institute corrective measures.”
- **Written notice:** A recipient must provide written notice to the parties that includes sufficient details, such as the identities of the parties involved, if known, the specific section of the policy that was violated, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- **Live hearing:** The school’s grievance procedure must provide for a live hearing. At the hearing, the decision-maker must permit each party to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at a hearing must be conducted by the party’s advisor of choice.
- **Roles and responsibilities.** The decision-maker of responsibility cannot be the same person as the Title IX Coordinator or the investigator(s). This forbids the “single investigator” or “investigator-only” models for Title IX grievance processes.
- **Presumption of innocence.** Grievance procedures and written notice of the allegations must include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- **Burden of gathering evidence:** Schools are responsible for gathering sufficient evidence to reach a decision, and the burden of proof is not the responsibility of the complainant or respondent. Further, schools must not restrict the ability of either party to discuss the allegations or present relevant evidence.
- **Review of evidence:** Schools must send the evidence and investigative report to both complainants and respondents prior to the completion of the report. Each party will have at least ten days to submit a written response, which will be included in consideration before the investigative report is finalized.
- **Standard of evidence for complaints against employees:** Schools must apply the same standard of evidence for complaints against students as it does for complaints against employees, including faculty.



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- **Record retention:** Schools must maintain documentation related to the investigation, any determinations, any appeals, informal resolution, and training materials for a period of three years. This documentation must also be made available to the complainant and respondent.



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Contact Information

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