

Systemwide Title IX and DHR Assessment

California State University

Presented By:

The Institutional Response Group | Cozen O'Connor

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Board of Trustees

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Scope of the Engagement

- Systemwide assessment of the implementation of CSU's Title IX and DHR programs
- Evaluate strengths, challenges, and resources at all 23 universities and the Chancellor's Office
- Assess systemwide opportunities for coordination, alignment, oversight, and efficiency

Title IX

- Sex Discrimination
- Sexual Harassment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

Discrimination, Harassment and Retaliation (DHR)

- Age
- Disability
- Gender
- Genetic Information
- Gender Identity
- Gender Expression
- Marital Status
- Medical Condition
- Nationality
- Race or Ethnicity
- Religion or Religious Creed
- Sex
- Sexual Orientation
- Veteran or Military Status

Other Conduct of Concern

- Unprofessional Conduct
- Bullying
- Microaggressions
- Abusive Conduct

Core Obligations

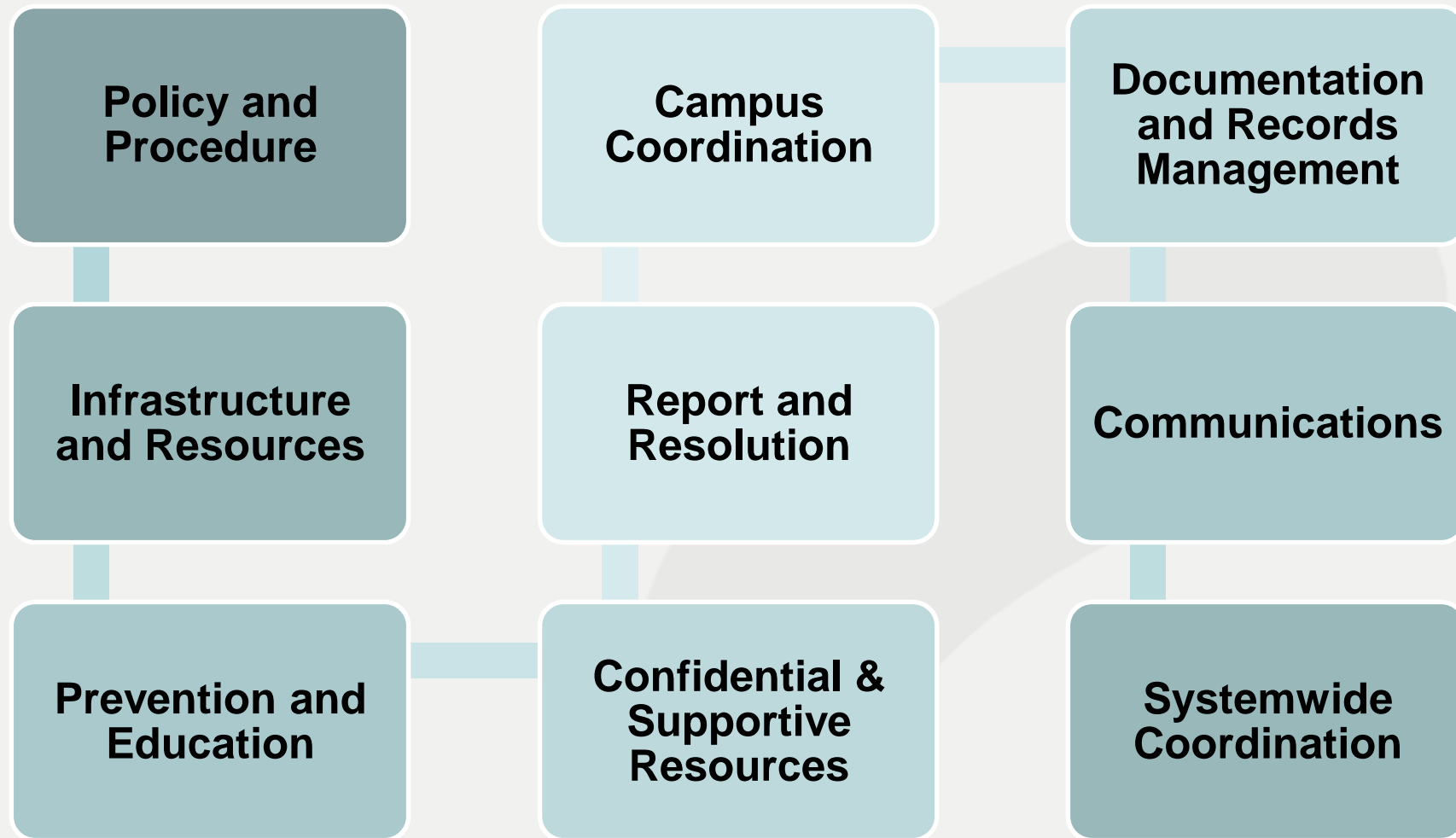
- Coordinator/Administrator
- Notice of nondiscrimination
- Written grievance procedures
- Prevention and education
- Training
- Response to reports and formal complaints
 - Supportive measures
 - Investigation or other resolution
 - Individual or community remedies

Eliminate

Prevent

Remedy

Goal: Strengthen Institutional Culture



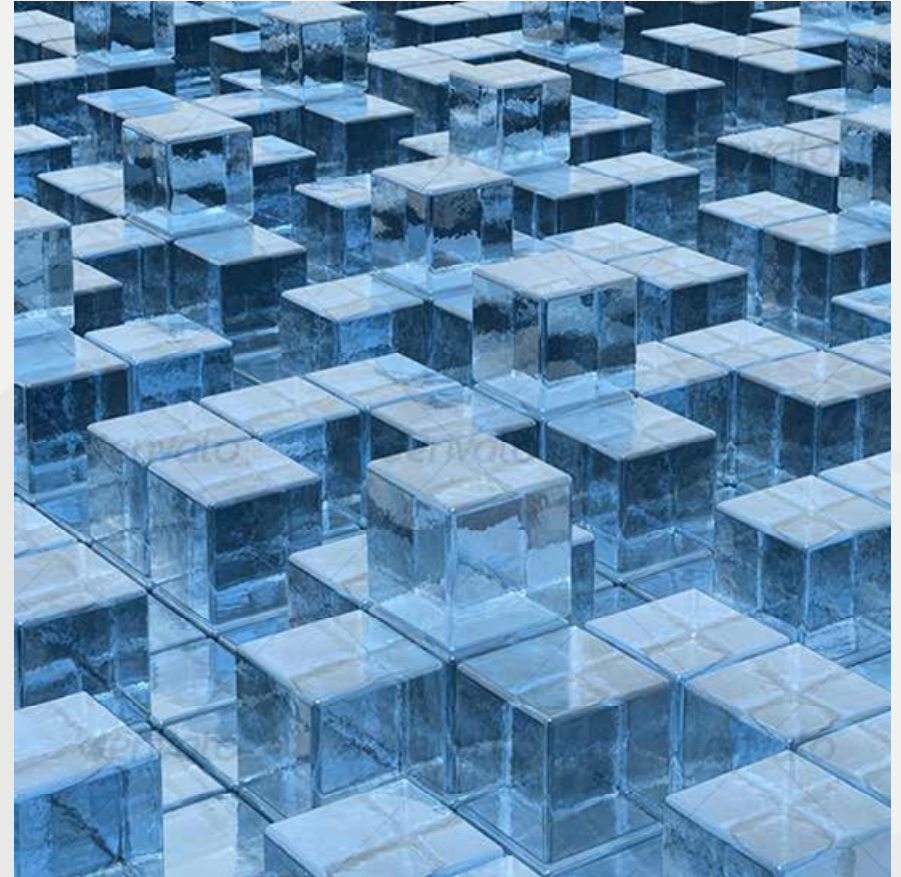
Observed Strengths

- Universal commitment and dedication
- Transformative impacts of CSU mission
- Humility and openness to this effort
- Strengths of individual personnel
- Campus-specific strengths and practices

THE CONTEXT

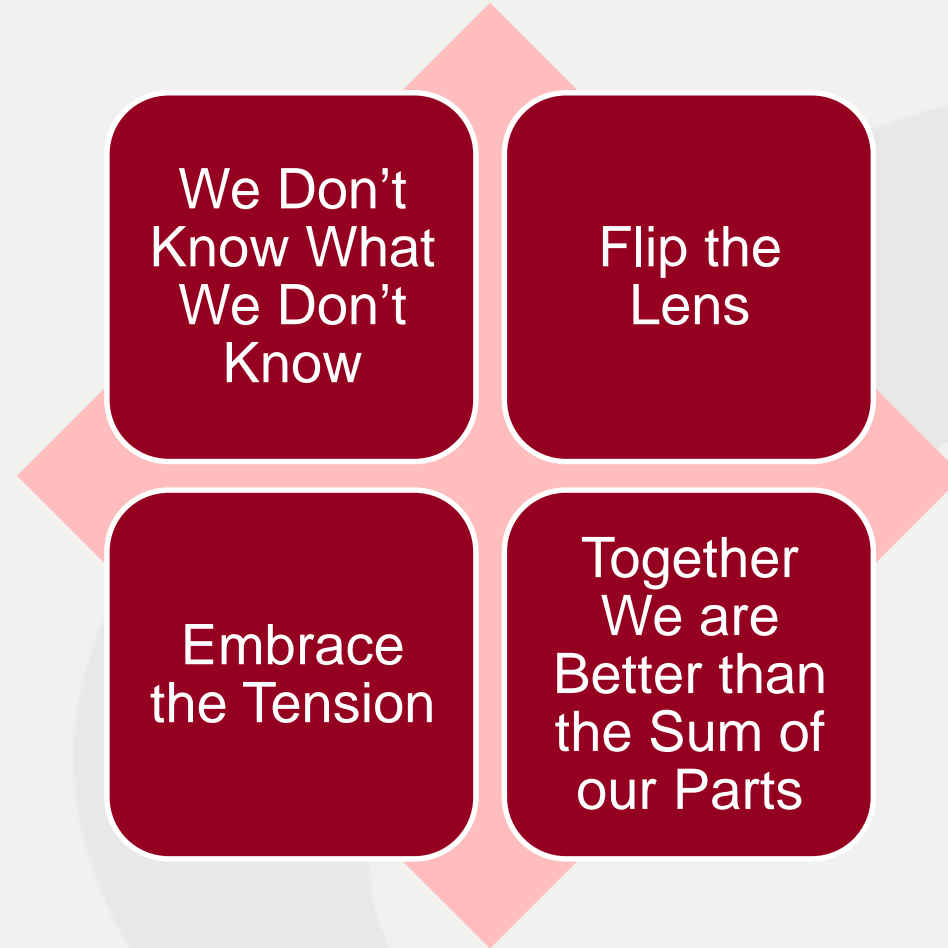
Our Approach

- Holistic, not limited to legal compliance
 - Law
 - Impacts of the Conduct
 - Institutional Context

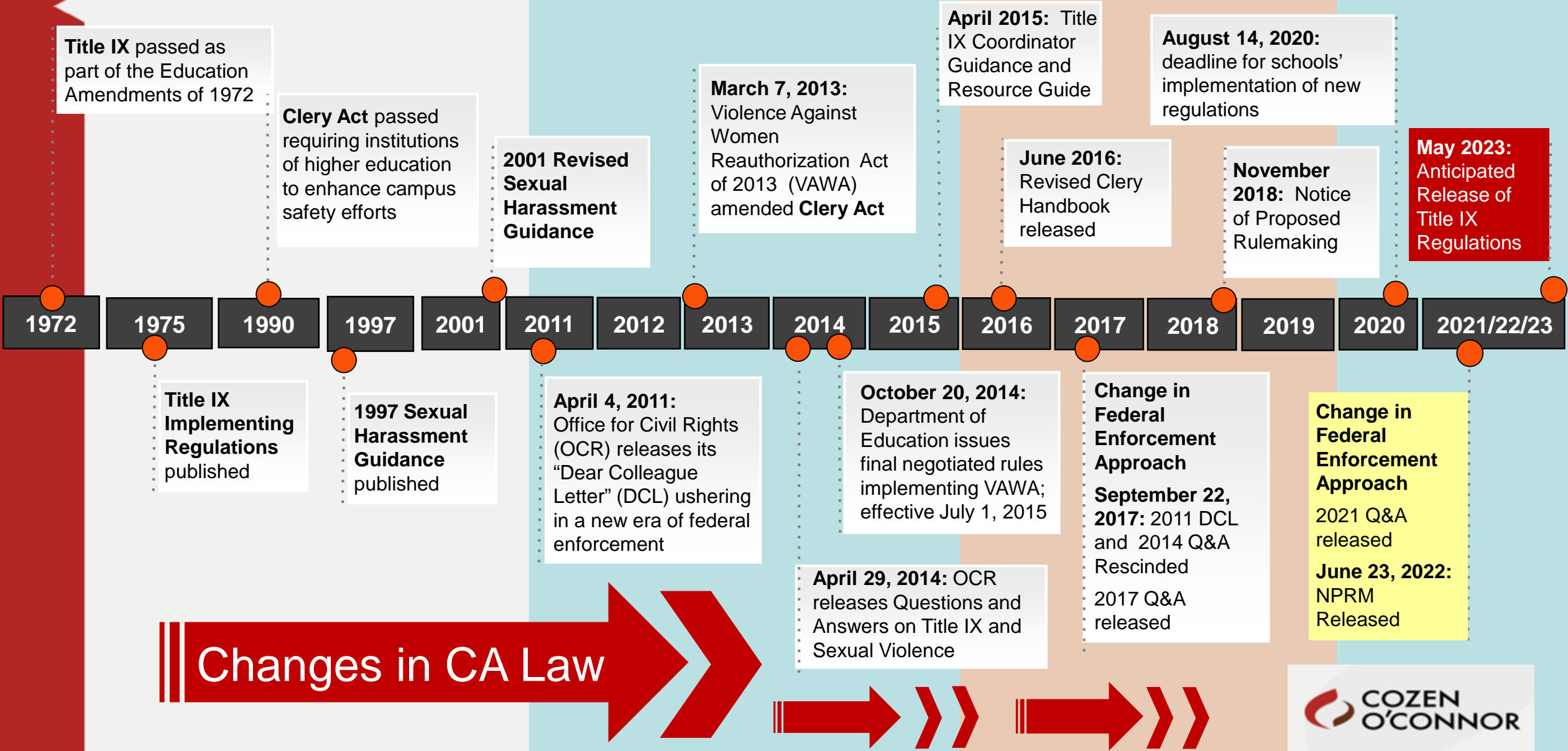


Framing the Conversation

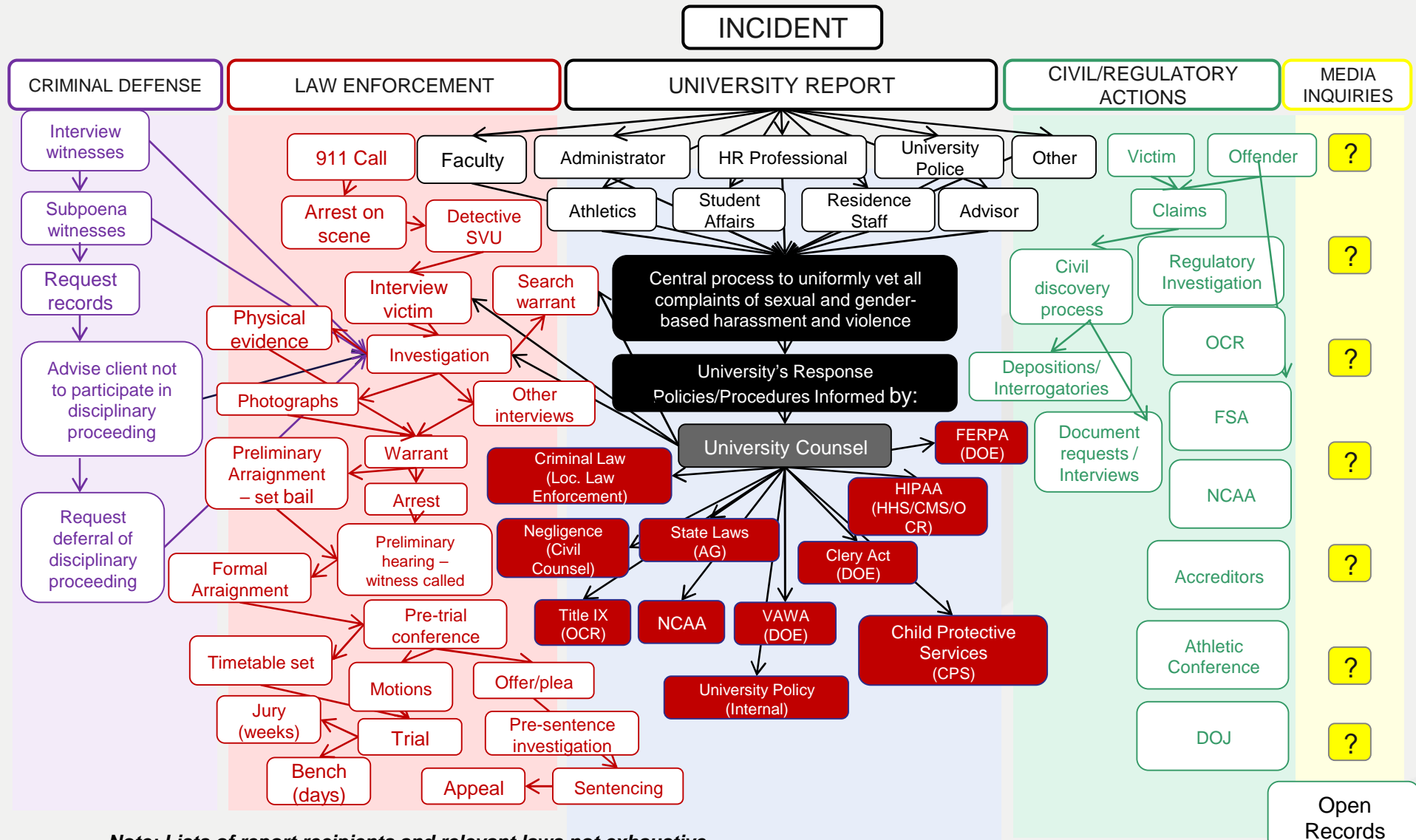
- Humility
- Empathy
- Accountability
- Collaboration



Evolution of Federal Legislation and Guidance

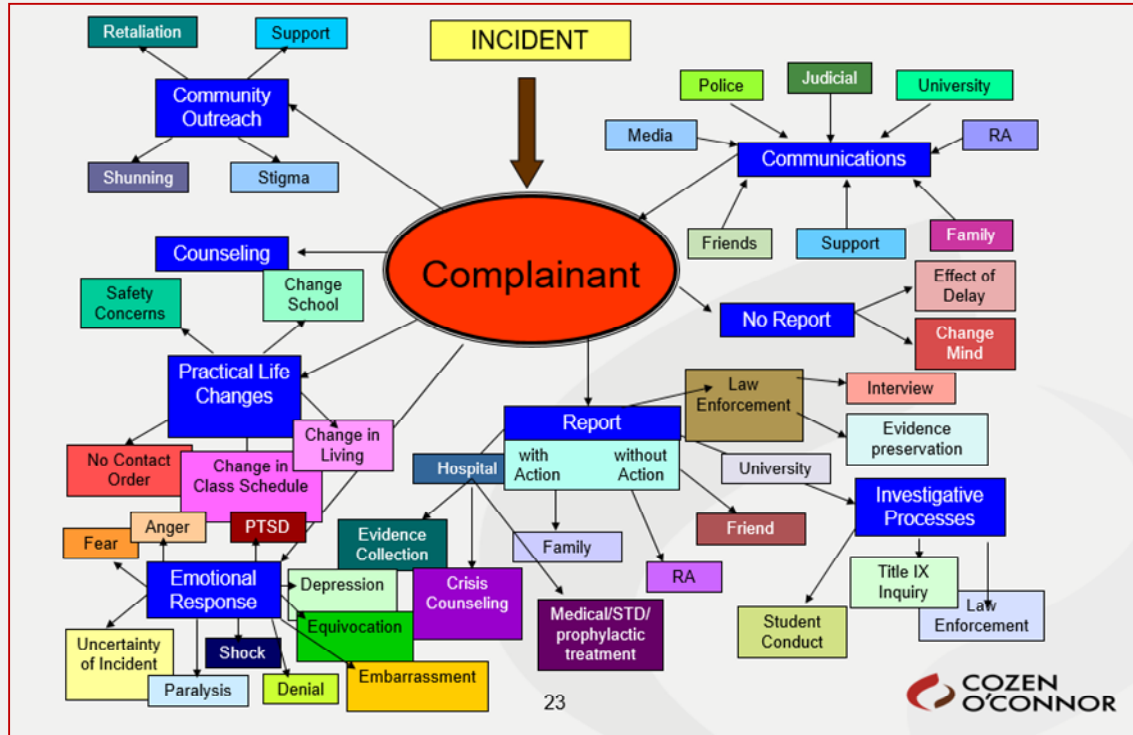


The Challenge of the Context

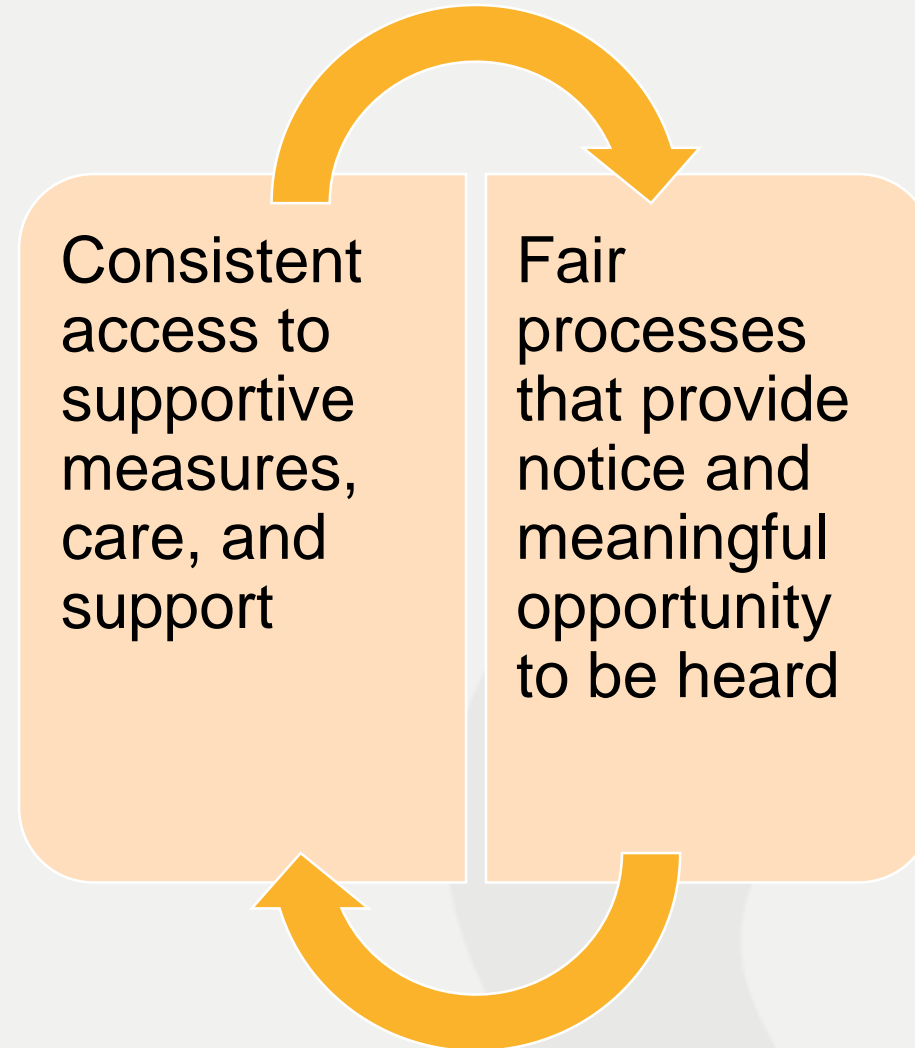


Note: Lists of report recipients and relevant laws not exhaustive.

Informed Care for the Individual



Care-Compliance Continuum



OVERVIEW OF THE ASSESSMENT

Steps in the Engagement

People

- Campus Site Visits
- Community Engagement

Paper

- Policies and Procedures
- Templates, Training Materials, Cases

Analysis

- Aggregate Themes and Information
- Public Release of Written Reports

Consistent and Ongoing Engagement

Ongoing Engagement

- Board of Trustees
- Chancellor
- Presidents and Vice Chancellors
- CSU Academic Senate
- Council of Campus Senate Chairs
- CO Systemwide Title IX/DHR
- Title IX Assessment Team
- Civil Rights Team (including OGC)
- Associated Students, Inc.
- Cal State Student Association

Systemwide Coordination

- Title IX Coordinators
- DHR Administrators
- Systemwide Clery Coordinator
- Confidential Victim Advocates
- Hearing Advisors
- Learning & Development Services
- CFA Womxn's Caucus Tri-Chairs
- Campus VP/AVPs for HR and Academic Affairs

Campus Visit Schedule

JULY

Chancellor's Office
Fresno State

AUGUST

Sonoma State
San Jose State
Channel Islands

SEPTEMBER

Northridge
San Francisco
Stanislaus
Maritime
Bakersfield
Chico

OCTOBER

Sacramento State
San Marcos
San Bernardino
East Bay



NOVEMBER

San Diego
Long Beach
Los Angeles

DECEMBER

Monterey Bay
Humboldt
Pomona

JANUARY

Dominguez Hill
San Luis Obispo
Fullerton

ADDITIONAL VISITS

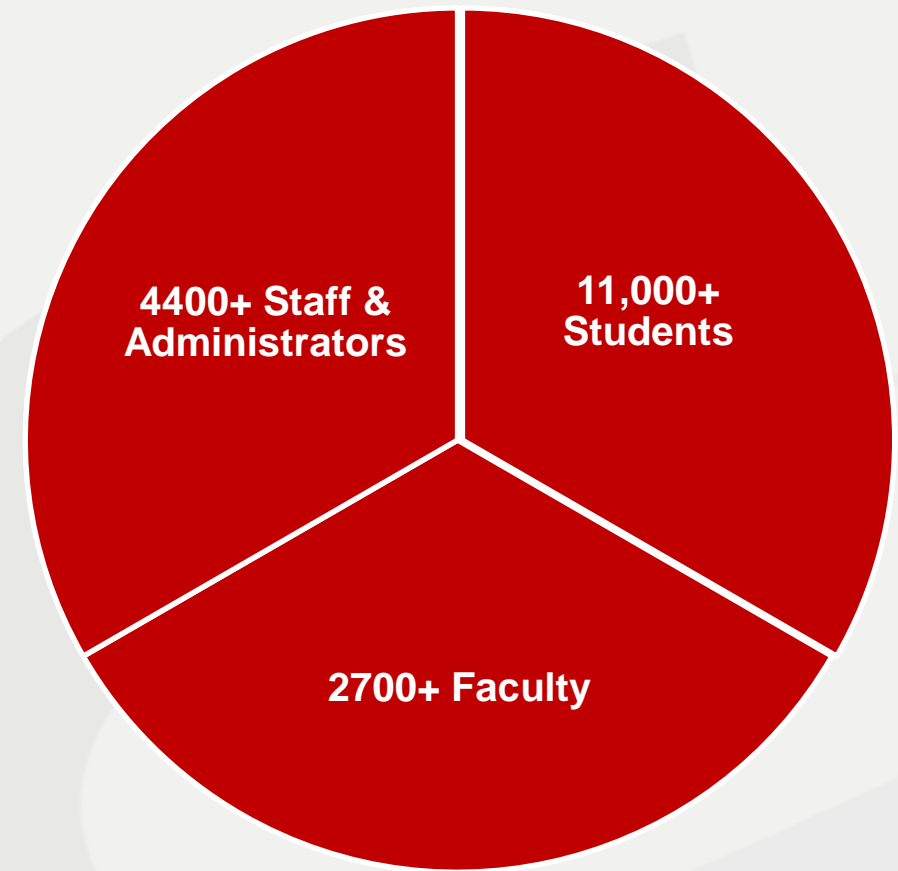
Sonoma State (January)
San Jose State (March and April)



Systemwide Survey

- December 2022 to February 2023
- Individually tailored to each university and the CO
- Anonymous participation

Nearly 18,000 Responses



CAVEATS AND COMPLEXITIES

Caveats and Complexities

- Timing of the assessment
 - Institutional responses
 - COVID-19
 - 2020 Title IX Regulations
 - National discourse on social and racial justice
- Impacts of social media and legislative actions

External Challenges

- Underfunding and severe resource constraints
- Conflicts in evolving state and federal law
- Disciplinary procedures in collective bargaining agreements not aligned with federal law
- Nationwide shortage of Title IX/DHR professionals
- Tone and tenor of national dialogue

OBSERVATIONS AND RECOMMENDATIONS

SYSTEMWIDE COORDINATION AND OVERSIGHT

Current Chancellor's Office Systemwide Title IX and DHR Compliance Services

- Draft systemwide policies and templates
- Provide onboarding for Title IX Coordinators
- Review systemwide online training content
- Provide training to campus Title IX/DHR professionals
- Host annual conference and periodic meetings
- Collect campus data for annual reports
- Coordinate and train external hearing officers
- Coordinate and train university-appointed advisors
- Respond to PRA requests
- Respond to external regulator/auditor requests
- Hear Title IX/DHR appeals
- Respond to whistleblower complaints
- Respond to complaints referred from campuses

Systemwide Coordination Challenges

- No oversight authority for campus Title IX/DHR programs
- *Ad hoc* support and guidance to all campuses
- Limited education for Board of Trustees, Presidents, senior leaders, and supervisors over Title IX/DHR
- Inconsistent elevation of university reports to the CO
- No enterprise-level records management system
- Inadequate data and information to track patterns and trends to inform prevention and remedial efforts

Systemwide Recommendations

- Combine CO Title IX and DHR Compliance Services under the leadership of an Assistant/Associate Vice Chancellor
- Centralize oversight and accountability processes at the CO
- Develop, train and oversee shared pool of investigators and hearing officers through stand alone regional center(s)
- CO to lead and coordinate prevention and education efforts
- Implement enterprise-level case management system

OBSERVATIONS AND RECOMMENDATIONS

CORE FINDINGS ACROSS THE CSU

Core Observations

- 1 Infrastructure
- 2 Prevention and Education
- 3 Response to Other Conduct of Concern
- 4 Trust Gap
- 5 Accountability

Core Observation #1: Infrastructure

1. Infrastructure, as designed, is insufficient to consistently carry out care and compliance responsibilities at most of the 23 universities
 - Directly impacted by lack of resources
 - Aggravated by instability, transition and overload
 - Hindered by insufficient records management systems
 - Leads to insufficient institutional history and accountability

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Infrastructure: Reported Impacts

1

- Hinders ability to consistently demonstrate care and implement core functions in a compliant and effective manner

2

- Impacts responsiveness, timeliness and overall effectiveness

3

- Limits ability to engage in proactive, strategic work

4

- Leads to diminished trust in system, university, office, and administrators, which increases barriers to reporting and disengagement with process

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Infrastructure Recommendations: System Level

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- Identify additional financial resources
- Expand capabilities for oversight of prevention and education, investigations and resolutions
- Identify model for supporting campus resources: university-appointed hearing advisors, confidential advocates, respondent support
- Expand staffing in Office of General Counsel to sufficiently support campus implementation needs
- Provide support and accountability structure to strengthen coordination and internal procedures on each campus

Infrastructure Recommendations: Campus Level

1

- Work with CO to develop project plans for addressing gaps and implementing recommendations

2

- Identify recurring baseline funding for Title IX/DHR programs

3

- Combine Title IX and DHR functions

4

- Enterprise-level case management system to align with CO

5

- Campus-specific recommendations

Core Observation #2: Prevention & Education

2. Prevention and education programming

- At most universities, limited in-person (or synchronous) engagement beyond the required online modules on gender equity and non-discrimination
- While necessary to establish a baseline, they are ineffective to shift culture and climate
- Significant gaps in required primary prevention and awareness programming

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Strategic Integration of Educational Objectives

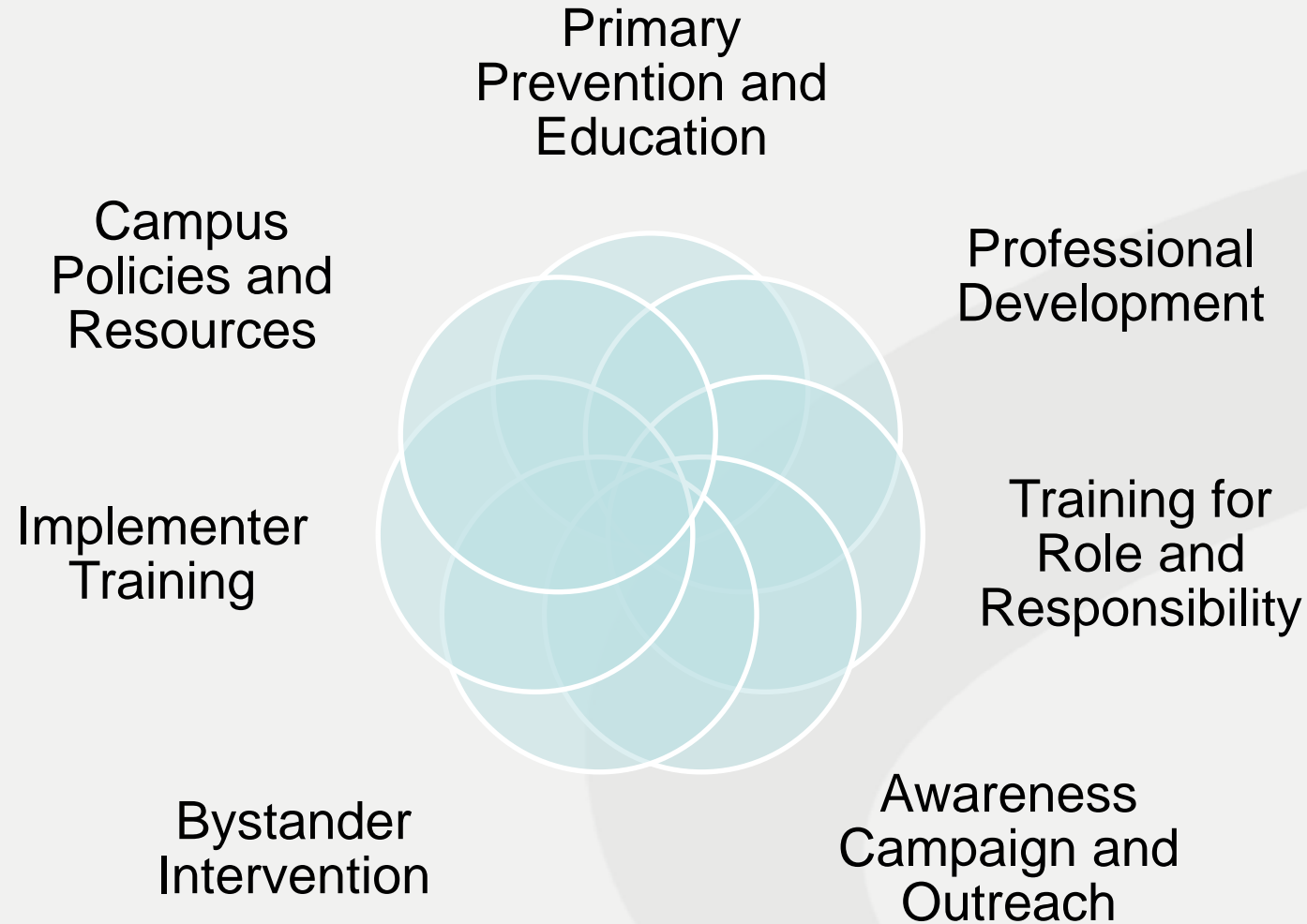
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Individual Campus Programming

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- Primary prevention vs. training
- Few dedicated personnel or campus coordinating committees
- *Ad hoc* and diffuse, rather than coordinated and intentional
- Insufficient professional development
 - Employee understanding of reporting responsibilities
 - Manager/department chair core competencies and skill sets

Prevention and Education Recommendations: System Level

1

- Dedicated prevention and education position at the CO

2

- CO to take expanded role in ensuring compliance on all campuses

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- CO to create matrix of all training requirements and assist universities in developing strategic plan

Prevention and Education Recommendations: System Level

- 1
- 2
 - Title IX and DHR
 - Respectful and inclusive environments
 - Conflict resolution
 - Bystander intervention strategies
 - Effective leadership
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- 5
 - CO to host annual systemwide symposium focused on prevention and education

Prevention and Education Recommendations: Campus Level

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- Individual with dedicated responsibilities for coordination and tracking of prevention, education and training
- Campus prevention services coordinating committee
- Strategic plan for increased engagement with all campus community members
- Expansion of professional development and training for faculty and staff, including senior leadership, deans, department chairs, managers and leaders

Core Observation #3: Other Conduct

3. “Other Conduct of Concern”

- Response to other conduct of concern that may not meet policy thresholds is a significant driver of culture and climate
 - Conduct that does not rise to the level of a policy violation based on protected status because it is not severe, persistent or pervasive
 - Conduct not based on protected status but may implicate other policies
 - Conduct that may not be subject to discipline because of free speech or academic freedom

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Impacts of Process Gaps for Responding to Other Conduct of Concern

- No consistent formal process for reporting, resolving, documenting, or tracking
 - Contributes to perception of ineffectiveness
 - Limits ability to take effective action
- Coupled with minimal training and professional development, unaddressed conduct directly impacts culture

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Recommendations: System Level

- Develop a written policy or statement to establish expectations and process for responding to other conduct of concern
- Reinforce expectations through programming and in-person (or synchronous) engagement
- Strengthen and expand available campus competencies

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Recommendations: System Level

- Aid in building core competencies, systems, and structures at each university for responding to other conduct of concern
- Assist in analysis of data to inform
 - Remedial actions regarding culture and climate
 - Targeted prevention programming
 - Response to ongoing issues of concern at both the university and system-level

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Recommendations: Campus Level

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- Develop a centralized reporting and intake system to document and track reports about other conduct of concern
- Robust triage/review process by core administrators
- Ensure sufficient documentation system to track
 - Responsiveness
 - Patterns and trends

Core Observation #4: Trust Gap

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- 3
- 4**
 - 4. Distrust of senior leadership and compliance processes across many universities
 - Palpable theme across all constituent groups
 - Students
 - Staff
 - Faculty
 - Title IX/DHR responses live in broader ecosystem of trust
- 5

Sources of Distrust

- High profile incidents involving leaders at the highest levels of CSU
- University-specific issues
- Limited awareness of Title IX/DHR role and resources
- Protracted processes for accountability, particularly for faculty and staff under CBA and CA state law
- Negative experiences and perceptions of process

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Impacts of Trust Gap

- Increases barriers to reporting
- Enhances fears about actual or perceived retaliation
- Underreporting impacts ability to address conduct
- Unaddressed conduct negatively impacts morale, undermines confidence in the institution, and impacts core mission

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Trust Gap Recommendations: System Level

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- Senior leadership must clearly communicate priorities, commitment, and values
- Develop robust, accessible systemwide Title IX/DHR website
- Create a system-level advisory committee that includes faculty, staff and student representation
- Develop clear and plain language communications that are responsive to the needs of the community
- Create systemwide annual report
- Track and share data/metrics
- Conduct routine systemwide and university climate surveys

Trust Gap Recommendations: Campus Level

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- Increase visibility and awareness of Title IX/DHR functions and resources
- Prioritize in-person interactive engagement with students, faculty and staff
 - Revised and expanded web content
 - Awareness campaign
- Expand annual report with meaningful information/data
- Create anonymous reporting options
- Collect post-process feedback of parties and all impacted individuals

Core Observation #5: Accountability

5. Accountability

– Individual actors

- Underreporting
- Relatively small percentage of cases formally investigated
- Protracted disciplinary processes

– Campus Title IX/DHR programs need increased structures for accountability

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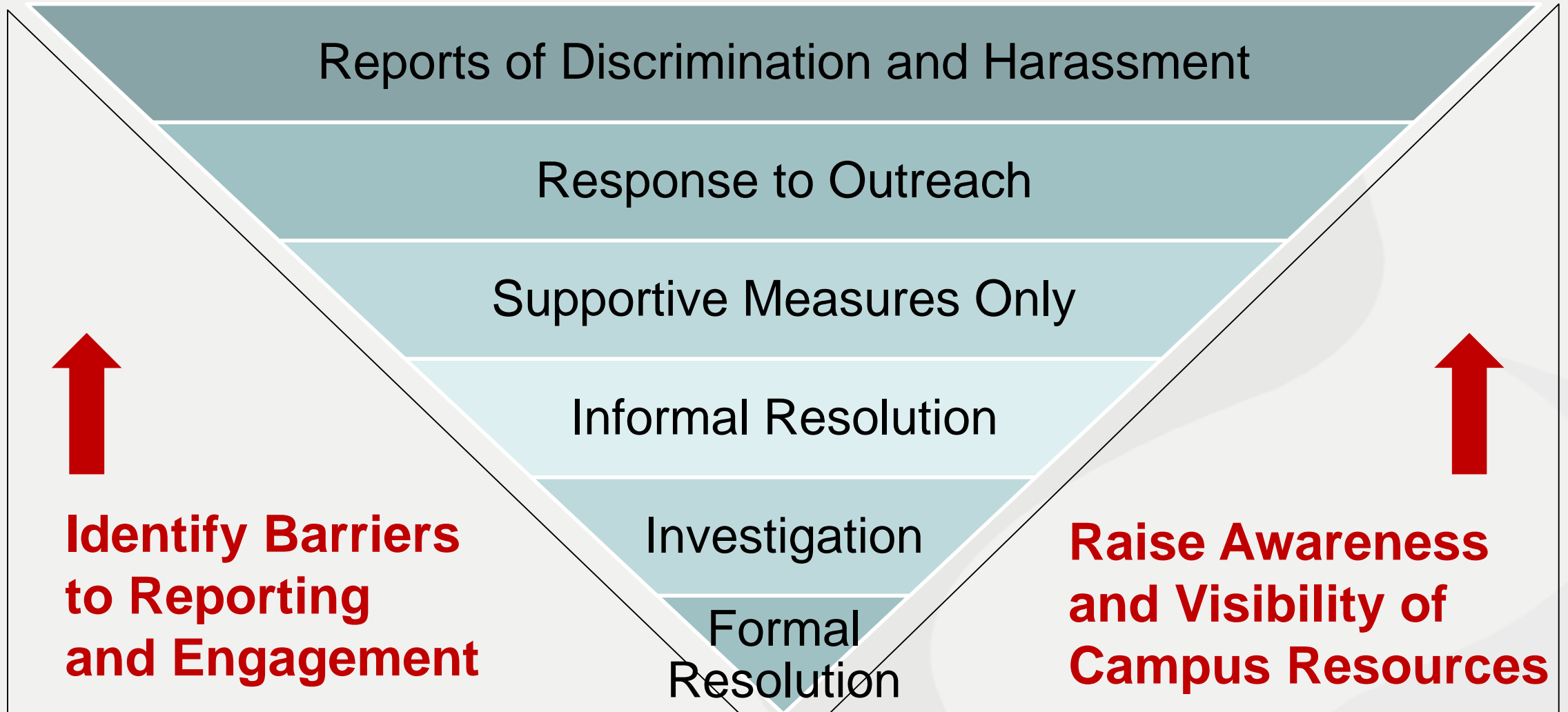
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Few Cases Reach Formal Resolution



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Identify Barriers to Reporting and Engagement

Raise Awareness and Visibility of Campus Resources

Post-Title IX/DHR Sanctioning Processes

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- Protracted disciplinary processes for employees
 - Statutory and contractual requirements and collective bargaining agreements
 - Third party decision-makers (arbitrators and administrative law judges)
 - Not aligned with federal requirements under Title IX and the Clery Act
 - Negotiated outcomes and settlements contributes to perception of institutional bias

Barriers to Institutional Accountability

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- Inconsistent documentation and recordkeeping protocols

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- Immature structures to ensure consistent and informed decision-making

3

- Limited effective supervisory structures for Title IX and DHR programs

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- No formal standards and processes for implementing systemwide policy
- No standardized quality control or quality assurance

Recommendations: System Level

- Continue to evaluate barriers to reporting and engagement
- Review and revise tone, content, and format of reporting forms and other template communications
- Identify and work toward reconciling conflicts between CBAs, state statutory rights, and other state and federal requirements
- Document, track and assess effectiveness of Title IX/DHR programs

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Recommendations: System Level

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 - 2
 - 3
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 - 5
- Expanded and enhanced CO team should
 - Develop systemwide expectations and accompanying standards, policies, and procedures for all CSU universities
 - Oversee compliance program administration by having a CO team member partner with CSU institutions
 - Develop protocols to review initial assessments, closures, investigation reports, written determinations
 - Develop and roll out process for rigorous screening and evaluation of the effectiveness of campus TIX/DHR functions

Recommendations: Campus Level

- Within Title IX/DHR programs
 - Map process for efficiency, conflicts and gaps
 - Expand intake, outreach, and ongoing case management
 - Separate support/advocacy functions from investigation
 - Effective documentation and case management
- Strengthen campus collaboration and information sharing through multi-disciplinary team
- Ensure Title IX Coordinator/DHR Administrator remains engaged in sanction and appeal until final

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Next Steps

- Public release of written reports
- Work with the University Implementation Teams
- Develop system and individual university project plans

Conclusion

- This deck is not meant to stand alone as the full Cozen O'Connor report.
- It is an abbreviated visual aid accompanying an oral presentation and will be supplemented in subsequent written reports.
- The Calstaterereview@cozen.com email address remains open.