

# Title IX and DHR Assessment

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California State University

Chancellor's Office Human Resources

The Institutional Response Group

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## I. Introduction

In March 2022, the Board of Trustees of the California State University (CSU), through the Office of the Chancellor, engaged Cozen O'Connor to conduct a systemwide assessment of the CSU's implementation of its programs to prevent and address discrimination, harassment, and retaliation (DHR) based on protected statuses, including sex and gender (under Title IX).<sup>1</sup> The goal of the engagement is to strengthen CSU's institutional culture by assessing current practices and providing insights, recommendations, and resources to advance CSU's Title IX and DHR training, awareness, prevention, intervention, compliance, and support systems.

Our work involved a comprehensive assessment of infrastructure and implementation of CSU policies and procedures at the system and each university. We evaluated the coordination of information and personnel, communications, record keeping and data management, and all other aspects relevant to ensuring effective and legally compliant responses to sexual and gender-based harassment and violence, protected class discrimination and harassment, and *other conduct of concern*.

We assessed the strengths, challenges, and resources at each of the 23 universities within the CSU and the Chancellor's Office headquarters, and identified opportunities for systemwide coordination, alignment, oversight, and efficiency to support effective implementation. Specifically, the review included the assessment of:

- Infrastructure and resources at each CSU university and the systemwide Title IX and DHR offices;
- Training, education, and prevention programming for students, staff, and faculty at each university, the Chancellor's Office, and members of the Board of Trustees;
- The availability of confidential or other resources dedicated to supporting complainants, respondents, and witnesses;
- The life span of a Title IX or DHR report, from intake to resolution, including intake; outreach and support protocols; case management systems and protocols; staffing and models for investigations, hearings, sanctioning/discipline, grievance, and appeal processes; investigative and hearing protocols; inter-departmental campus collaboration, information sharing, and coordination in individual cases and strategic initiatives; document and data management protocols; timeliness of case resolution, and factors impacting timely resolution; informal

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<sup>1</sup> Definitions for discrimination, harassment, and retaliation, including the protected statuses under federal and state law are defined in the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#) (Nondiscrimination Policy).

resolution processes; and, protocols for responding to reports of misconduct by students or employees that do not rise to the level of a policy violation;

- University culture and climate regarding Title IX and DHR issues; and
- Support and resources offered to university Title IX or DHR staff by the CSU's systemwide Title IX or DHR staff at the Chancellor's Office.

On May 24, 2023, we presented a high-level summary of the scope of the assessment, our observations, and accompanying recommendations at the public session of the Board of Trustees Committee on University and Faculty Personnel. The PowerPoint from the presentation is available [here](#). A recording of the presentation can be accessed [here](#).

This report outlines Cozen O'Connor's assessment of the Title IX and DHR programs at the Chancellor's Office Human Resources (Chancellor's Office Report). The Chancellor's Office review was led by Gina Smith and Leslie Gomez. The Chancellor's Office Report supplements Cozen O'Connor's Systemwide Report. The Systemwide Report and a Summary of the Systemwide Report can be accessed here: [The CSU's Commitment to Change | CSU \(calstate.edu\)](#). The Chancellor's Office Report must be read in conjunction with the Systemwide Report, as the Systemwide Report provides a more detailed discussion about the assessment, the scope of the engagement, our approach to the issues, and common observations and recommendations across all 23 CSU universities. For ease of reading and efficiency, the content from the Systemwide Report is not replicated in each University Report.

The California State University Office of the Chancellor is located in Long Beach, CA. The Chancellor's Office is the headquarters for the 23-campus system. It houses approximately 700 employees.

## **II. Overview of Engagement**

As outlined in the Systemwide Report, our assessment included a review of written documents, as well as interviews with university Title IX and DHR professionals, administrators, students, faculty, and staff, at each university and the Chancellor's Office. Information gathered in our interviews is presented without personal attribution in order to ensure that administrators, students, faculty, and staff could participate openly in the assessment without fear of retaliation or other concerns that might inhibit candor. Relevant de-identified and aggregated information from the interviews is set forth in each of our reports, and Cozen O'Connor has maintained notes of each interview as attorney work product within our confidential files; these files will not be shared with the CSU.

Between July 2022 and May 2023, Cozen O'Connor conducted dozens of meetings with more than 25 Chancellor's Office employees, including current and former administrators and staff within the Chancellor's Office Human Resources (COHR) and other Chancellor's Office employees with systemwide responsibilities related to Title IX, DHR, whistleblower, human resources, and employee relations. In addition, all Chancellor's Office employees were invited to contact Cozen O'Connor from a dedicated email address ([calstatereview@cozen.com](mailto:calstatereview@cozen.com)).

In December 2022, we asked each of the 23 universities and the Chancellor's Office to disseminate an invitation to participate in an online survey. University presidents and the Chancellor's Office communicated the availability of the survey to all faculty, staff, and students at the university, and to all employees at the Chancellor's Office. The survey was open from December 2022 through February 2023. In total, we received 160 responses from employees at the Chancellor's Office. A summary of the survey response rate and data is included in Appendix I.

### **III. The Chancellor's Office, Human Resources: Infrastructure**

The [Chancellor's Office of Human Resources](#) (COHR), led by the Vice Chancellor of Human Resources, is an office of 16. The functions of the office are divided into two divisions: 1) Human Resource Services, Learning, and Engagement, which oversees employee and labor relations, learning and development, and resource programming, and general human resources functions; and, 2) Human Resources Talent Acquisition and Workforce Planning, which oversees talent acquisition, recruitment, and workforce planning. Each division is led by a director, who reports to the Associate Vice Chancellor and Chief of Staff, who in turn reports to the Vice Chancellor.

COHR functions in a more traditional human resources framework and serves the approximately 700 employees at the CO (which excludes faculty and students). The Director of Human Resources Services, Learning, and Engagement is responsible for responding to reports of discrimination and harassment based on protected status, including sex or gender (Title IX). Given the relatively small number of employees at the Chancellor's Office, there are very few reports. We learned that the most common category of report relates to discrimination on basis of disability, age, and gender; a much smaller volume of reports relates to sexual harassment. Unrelated to discrimination and harassment on the basis of protected statuses, COHR receives many concerns about the impact and result of ineffective managers. The survey data we reviewed reflected largely negative experiences with the resolution of reports or complaints shared with COHR.

During the course of our assessment, COHR was in a state of transition, both at the leadership level, and at the director level. In summer 2022, the former Vice Chancellor of Human Resources went on a leave of absence, and thereafter resigned. Leora Freedman, formerly Deputy General Counsel, was appointed as acting Vice Chancellor, and subsequently as Vice Chancellor.

At the director level, the Director of Human Resources Services, Learning, and Engagement recently left COHR to pursue another opportunity. The recently departed Director, who was with the CSU for about a year, had replaced a Senior Director who had been with COHR about 20 years. While the volume of DHR and Title IX complaints is low, the portfolio and workload of COHR professionals is not. Like all CSU departments with whom we have interacted, the COHR is understaffed for its portfolio. We heard through our interviews that staff wear multiple hats and maintain a "tremendous workload." The breadth of the tasks required left some staff feeling that they had to be "generalists" in myriad areas, which prevented them from diving deeper into any one issue. There was concern expressed that the workload impacted the quality of the service provided, with one staff member describing its impacts on intake meetings with complainants following a complaint, "If we don't have a team of many to bear the burden, it can be very difficult to take the time to talk to the person, but we don't want to tell them to take a number."

The turnover in leadership positions, coupled with the gap in effective documentation practices, can contribute to loss of institutional history, inconsistent practices, and gaps in service. We heard about "things falling through the cracks" and staff identifying the need to "retain knowledge or information to capture what is going on before people with institutional knowledge leave."

We observed the same limitations in resources and staffing that exist across the system. Current COHR staff expressed the need for an intake and supportive measures coordinator, a conflict resolution and restorative justice facilitator, and a prevention and education coordinator. We heard that complainants are less frequently resolved through informal resolutions, including restorative approaches, in part due to the lack of effective conflict resolution functions and cultural expectations that complaints will be resolved formally, rather than informally.

COHR recently posted positions for a Senior Manager for Learning and Development and a Senior Manager for Employee and Labor Relations. The intention is for these positions to add capacity to the training function of COHR, including training on preventing harassment and discrimination. The Senior Manager for Employee and Labor Relations also will be available to respond to allegations of harassment, discrimination, and *other conduct of concern* (defined below).

We also heard that funding has been a challenge; however, we understand that the Chancellor's Office has taken steps to approve new budget lines and positions to ensure COHR can fulfill its role. Sufficient resourcing will be important to be able to attract and retain high performers.

Historically, COHR did not have an electronic records management system to store and maintain DHR and Title IX complaints. COHR recently adopted Maxient and is in the process of inputting files. Records were previously maintained in hard copy or on a share drive, and reports were tracked via an Excel spreadsheet. We understand that in the past, some employees had a "habit" of handwriting, not typing, interview notes, and maintaining "drawers and drawers" of current and former employee records.

#### **IV. Culture, Climate and Other Conduct of Concern**

In terms of the atmosphere and climate of the office, we heard that the COHR team feels more supported and described a feeling of "psychological safety" following the change in leadership. In seeking to understand the contextual background, we learned that individuals had different experiences with the prior leadership in COHR. We heard descriptions of positive working experiences in which staff felt valued, respected, and part of the team. We also heard concerns about prior leadership and management style within COHR.

We also understand that there are now better, and more collaborative relationships between and among COHR, members of the Chancellor's Office with systemwide responsibilities related to Title IX, DHR, and whistleblower, and the Office of General Counsel.

As it relates to broader cultural concerns, at each university, we have addressed the impacts of what we have termed *other conduct of concern*. We use this term to refer to conduct that may not rise to the level of protected class discrimination or harassment, but may nonetheless violate other **university** policies or be disruptive to the learning, living, or working environment. This includes, for example:

- Conduct on the basis of protected status that does not rise to the threshold of a potential policy violation because it is not severe, persistent, or pervasive
- Conduct not based on protected status, but that may implicate other policies (e.g., professionalism)
- Conduct that may not be subject to discipline because of free speech or academic freedom principles.

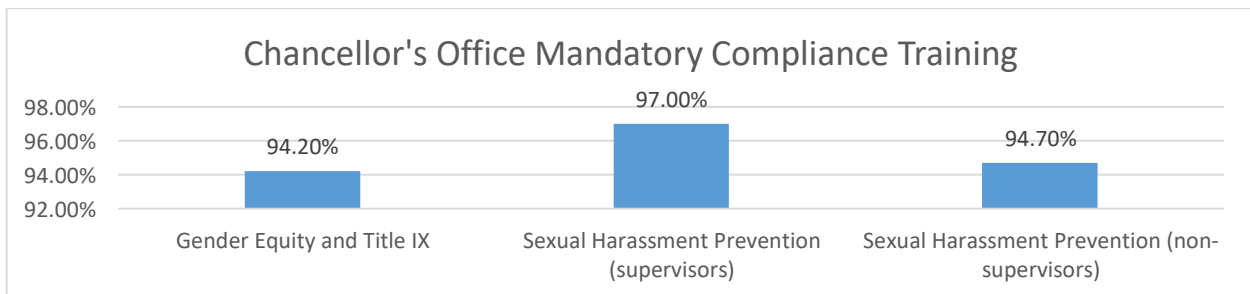
Most of our engagement with the Chancellor’s Office was with administrators and senior leadership. We did not have significant engagement with employees beyond those in leadership roles. We understand from the survey, however, that Chancellor’s Office employees do have concerns about the impacts of *other conduct of concern*, particularly as it relates to race, gender, and disability. Survey respondents shared concerns about microaggressions, potential bias incidents, and other harassing or bullying conduct. The survey data suggests the need for a climate survey within the Chancellor’s Office to better understand incidence and prevalence of reported behaviors.

As the Chancellor’s Office works with the 23 universities to develop frameworks for responding to *other conduct of concern* in an integrated manner, COHR will benefit from the renewed approach.

**V. Prevention, Education, Professional Development, Training, and Awareness**

Consistent with California state law, CSU policy requires all CSU employees to complete the online CSU *Sexual Misconduct Prevention Program Training*, also known as *Gender Equity and Title IX*, on an annual basis (for at least 60 minutes). In addition to this annual requirement for all CSU employees, supervisors and non-supervisors are required to participate in CSU’s *Discrimination Harassment Prevention Program* every two years (for at least 120 minutes).

The systemwide Learning and Development Office in the Chancellor’s Office hosts these online modules, which are provided by an external vendor, on its systemwide employee learning management system. The Learning and Development Office tracks employee completion of these required programs. The below chart, provided by the Chancellor’s Office, shows the completion percentage for the Chancellor’s Office for the 2022 calendar year:<sup>2</sup>



<sup>2</sup>We are informed that the Chancellor’s Office has since reached full compliance.



Chancellor's Office employees do not currently receive additional prevention and education beyond the online modules, however the Learning and Development Office has the capacity to work with COHR to expand offerings to Chancellor's Office employees. That programming can help to raise awareness and visibility of COHR, share information about resources, and work to de-stigmatize current perceptions about COHR.

As reflected in the survey data, some Chancellor's Office employees have a negative perception of COHR, expressing distrust or fear of retaliation. The lack of in-person engagement limits the opportunity to build trust or shift negative perceptions of COHR, particularly if those are tied to historical practices or leadership styles. We understand the current Vice Chancellor has committed to actively engaging in dialogue with constituents and stakeholders across the system, and that there is a leadership commitment to do the same across the Chancellor's Office.

In addition, we noted the need for expanded professional development and training opportunities for Chancellor's Office employees.

## **VI. Recommendations**

In the Systemwide Report, we provide detailed recommendations for enhanced Chancellor's Office oversight and coordination of university Title IX and DHR programs. The Systemwide Report also highlights the need for collaboration between Chancellor's Office personnel and university-level Title IX and DHR professionals to ensure accountability for the effective implementation of informed and consistent frameworks. These recommendations must be read together with the recommendations set forth in the Systemwide Report.

Unless otherwise specified, the below recommendations are directed toward the Chancellor's Office as a whole. We recommend that the Title IX Coordinator/DHR Administrator and the Campus Implementation Team work with the Chancellor's Office to map and calendar an implementation plan.

Our specific recommendations include:

1. As COHR works to replace the recently departed Director of Human Resources Services, Learning, and Engagement, ensure that any new hire has sufficient Title IX and DHR experience *and* employee relations/conflict resolution competencies and skills

2. As part of the recommended Title IX and Civil Rights Division, set up a model for oversight by a regional director over the Title IX/DHR functions with COHR
3. Develop expanded prevention and education, training, and professional development programs for Chancellor's Office employees
4. Engage in proactive outreach to raise awareness and visibility of COHR's Title IX/DHR functions and ensure all Chancellor's Office employees are aware of their reporting responsibilities, available resources, and how COHR can assist them
5. Periodically engage in a climate survey or other tool to assess any concerns about culture and climate within the Chancellor's Office
6. Evaluate and procure an enterprise risk level document management system that can be coordinated systemwide

## Appendix I Feedback from Survey

In December 2022, we asked each campus President and the Chancellor's Office to disseminate an invitation to participate in an online survey meant to provide a platform for all community members to share their experiences, perspectives, and insights. Nearly 18,000 students, staff and faculty across the system participated in the survey. We used a third-party vendor to host the survey, which was designed by Cozen O'Connor.

As a foundational matter, the surveys were meant to be qualitative, not quantitative. We sought qualitative information to assess perceptions and provide insights into complex issues, not quantitative data for measurement of rates of incidence or prevalence. The purpose of the surveys was to ensure that all campus community members had the opportunity to participate in the review, and to do so in a manner that reduced barriers and allowed for candid participation without fear of retaliation. We do not view the extrapolated themes from the comments as representative of the entire campus community. Rather, the qualitative feedback requested through the survey was to gather community input and understand how stakeholders interact with, and perceive, their individual university and the system as a whole.

The systemwide survey, which was customized for each university and the Chancellor's Office, provided the opportunity to share anonymous responses to questions with respect to the following areas:

- Physical Safety and Security. Survey respondents were asked to rate their physical safety on campus, including locations in which they felt more or less safe.
- Culture of Inclusivity and Respect. Survey respondents provided feedback with respect to the culture of inclusivity and respect in their working, living, and classroom environments.
- Prevention, Education and Training Programs. Survey respondents were asked to rate the quality of the prevention, education, and training programs provided by the university.
- Interactions with Title IX/ DHR. Survey respondents were asked to describe their interactions with Title IX and DHR, share their perspective whether complaints were handled properly, and provide any insights and recommendations they had as community members to foster reporting and build trust in these resources.
- Barriers to Reporting. Survey respondents were asked about their perspectives of campus resources, including confidential resources and reporting options, and to share feedback about potential barriers to reporting.

In total, we received 160<sup>3</sup> responses from employees at the Chancellor's Office, which equates to just under a quarter of Chancellor's Office employees.

Constituency	Number of Responses
Non-Supervisory Employee	56
MPP	70
MPP Supervisor	40
Other	5

An important part of this engagement was to provide the opportunity for community voices to be heard, as is, and we share that aggregate feedback here. We recognize that the information, perceptions, and insights shared by university constituents and stakeholders reflect individual perspectives and experiences that may not be universally held, or in some instances, supported by objective review of specific cases or incidents. We accept those perceptions as valid and do not seek to test the foundation of the perceptions. Our goal in seeking broad feedback was to identify aggregate themes by synthesizing information gathered, which we could then review and factor into the context of our own observations of policies, procedures and practices. The aggregate themes from the survey are as follows:

- Nature of adversarial work and safety. Survey respondents stated that they often handled complaints from disgruntled individuals, and that these matters were very adversarial. They were concerned that they may be subjected to violence as a result.
- Concerns about microaggressions or potential bias incidents. A number of survey respondents shared their own experiences about bias based on race, gender, or disability in connection with their employment at the Chancellor's Office.
- Reluctance to disclose on survey speaking to fear of retaliation. Throughout the survey, a number of survey respondents expressed distrust and stated that they did not want to provide detail. This suggests that they did not trust the survey to remain confidential and feared retaliation.
- Lack of visibility of Title IX and DHR. Survey-wide, respondents stated they were not aware of their Title IX Coordinator or DHR administrator, and that there was no cross-group collaboration.
- Perceived lack of responsiveness. Survey respondents stated that their complaints were not timely addressed, and in some cases were not addressed at all.

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<sup>3</sup> Some survey respondents identified as belonging to multiple constituencies; hence, the number listed here is smaller than the sum total in the chart in Appendix I.

- Human Resources serving institution rather than stakeholders. Across this survey, respondents stated that they believed Human Resources and Title IX served the interests of the institution rather than its stakeholders, and did not maintain confidentiality.