

# Title IX and Discrimination, Harassment, and Retaliation (DHR) Assessment

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California State University, East Bay

The Institutional Response Group

Gina Maisto Smith, Esq.

Leslie Gomez, Esq.

Cara Sawyer, Esq.



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**Table of Contents**

	<b>Page</b>
I. Introduction.....	1
II. Overview of Engagement .....	2
III. Summary of Findings and Recommendations.....	5
IV. The Title IX and DHR Office .....	7
A. Infrastructure.....	7
B. Visibility and Community Awareness of the Title IX & DHR Office.....	9
C. Website.....	9
D. Reporting Options.....	10
E. Case Processing .....	10
F. Review of Case Files.....	11
G. Community Feedback about the Title IX and DHR Office.....	12
V. Core Title IX and Related Requirements .....	13
A. Title IX Coordinator.....	<b>Error! Bookmark not defined.</b>
B. Notice of Non-Discrimination .....	17
C. Grievance Procedures.....	18
VI. Campus Coordination.....	20
A. University Police Department.....	21
B. Student Conduct.....	21
C. Housing and Residence Life .....	22
D. Faculty Affairs/Academic Affairs .....	22
E. Human Resources.....	23
F. Clery Act Responsibilities.....	23
VII. Campus Resources for Students and Employees .....	24
A. Confidential Advocates.....	24
B. Respondent Support.....	25
C. Counseling Services .....	25
D. Student Health Services.....	25
E. Ombuds .....	26
F. Additional Resources for Students .....	26
G. Additional Resources for Employees.....	27
VIII. Prevention, Education, Professional Development, Training and Awareness.....	27

- A. Students..... 28
- B. Employees..... 29
- C. Coordination ..... 29
- IX. Other Conduct of Concern ..... 30
- X. Recommendations ..... 31
  - A. Infrastructure and Resources ..... 32
  - B. Strengthening Internal Protocols ..... 33
  - C. Communications..... 36
  - D. Prevention, Education, Professional Development, Training and Awareness ..... 38
  - E. Responding to Other Conduct of Concern ..... 40
- Appendix I ..... 42
- Appendix II ..... 45
- Appendix III ..... 48

## A. 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 status 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

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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).

protocols; timeliness of case resolution, and factors impacting timely resolution; informal 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 California State University, East Bay (East Bay Report). The East Bay review was led by Gina Maisto Smith and Cara Sawyer. The East Bay 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 East Bay 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.

East Bay is located in Hayward, CA. It has a student population of approximately 13,693, 6% of whom live on campus, and a workforce of approximately 1,620 staff and faculty. An overview of the university's metrics and demographics is included in Appendix I.

## **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. 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.

With respect to East Bay, Cozen O'Connor conducted a three day onsite campus visit from October 25 to October 27, 2022 as well as multiple additional virtual follow-up meetings conducted over Zoom. In total, Cozen O'Connor conducted more than 20 meetings with more than 30 university personnel and other key campus partners, some of whom we spoke to on multiple occasions. These meetings included interviews with the following offices and individuals (identified by role):

- University President
  - Chief of Staff
- Division of Administration and Finance
  - Vice President of Administration and Finance
  - Title IX Coordinator/Interim DHR Administrator<sup>2</sup>
  - Human Resources Managers
  - Clery Coordinator
- Division of Student Affairs
  - Vice President, Student Affairs
  - AVP of Student Affairs, and Auxiliary Services
  - AVP, Equity & Belonging/Dean of Students
  - Director, Student Conduct, Rights and Responsibilities
  - ASI Executive Director
  - Director, University Housing and Commercial Services
  - Residence Assistants and other Housing Professionals
  - Director, Accessibility & Veteran Services
  - CARE Case Manager
  - AVP and Dean of Students
  - Executive Director, Academic Advising and Career Education
  - Associate Director, Student Equity and Success Center
  - Director of Counseling Services
  - Student Health Center Employees
  - Director, Recreation, Wellbeing and University Unions
  - Associate Director, Recreation and University Unions
  - Director Inclusion and Affinity Centers
  - Director, Student Life and Leadership Programs
- Members of the Faculty
- Athletics

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<sup>2</sup> The Title IX Coordinator/Interim DHR Administrator was administratively located in the Division of Administration and Finance, under Human Resources, when we were on campus in October 2022. The Title IX Coordinator/Interim DHR Administrator now reports to the University President.

- Athletics Director
  - Assistant Athletics Director
- University Counsel
- Campus Law Enforcement
  - Chief of Police
  - Lieutenant
  - Administrative Analyst
- Union Representatives
  - APC
  - CSUEU
  - Teamsters
  - SUPA
  - CFA
- ASI
  - Associated Students Board of Directors
  - ASI Leadership
- Academic Senate Executive Committee
- Academic Affairs
  - Associate Provost
  - Associate Deans
  - AVP Faculty Affairs

In addition to these meetings with administrators and campus partners, Cozen O'Connor sought feedback from students, staff, and faculty through a variety of modalities, including in-person engagement, through a systemwide survey, through a dedicated email address ([calstatereview@cozen.com](mailto:calstatereview@cozen.com)), as well as individual meetings via Zoom.

During our campus visit, Cozen O'Connor held a meeting with the Academic Senate Executive Committee (fourteen attendees), and a meeting with ASI Leadership (five attendees).

In December 2022, we asked each of the 23 universities 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. The survey was open from December 2022 through February 2023. In total, we received 326 responses to the survey from East Bay students, faculty, staff, and administrators. A summary of the survey response rate and data is included in Appendix II.

### III. Summary of Findings and Recommendations

As supported by the evidence base outlined in this report, our core findings and recommendations are as follows:

**Infrastructure, Awareness and Visibility of Title IX and DHR:** East Bay's Title IX and DHR Office is essentially an office of one administrator, with one full-time administrative support who has taken on expanded roles. There is an urgent need to expand the staffing of the office to include individuals to fill functions related to intake and supportive measures, investigations, prevention and education, and allow the administrative support role to take on more expansive documentation and data-related tasks. This staffing structure will support the following essential elements of effective practice: increased separation between the care and support function and the adjudicatory function; staffing for the necessary function of education coordinator to maintain accountability for the delivery of all education and training requirements; and data input, tracking and additional administrative support for the team. Since we visited campus in September 2022, East Bay has made great strides with respect to the implementation of the university's Title IX and DHR programs, and is positioned to continue doing so. However, the campus perception of the program is hampered by historical experiences, including prior instability in Title IX/DHR leadership, and an obscured institutional profile embedded in Human Resources and Risk Management. To address these concerns, we recommend taking steps to increase the awareness and visibility and improve the effective functioning of the Title IX and DHR Office. Most notably, during this review, the university changed the reporting line of the TIX and DHR Office to the President's to prioritize its profile and steep the office with the authority and commitment of the President. We further recommend that the university commit resources to fund, launch and sustain an awareness campaign to educate the university about the Office, its purpose and function, and available resources.

**Strengthening Internal Title IX/DHR Processes:** We observed a need to strengthen internal Title IX/DHR processes, especially with regard to multidisciplinary team coordination and response, communication, documentation, tracking, and the alignment of functions. Immediately after our visit in October, East Bay established the Title IX/DHR



Implementation and Coordinating Committee. We recommend that this Committee meet on a regular basis to discuss all new student, staff, and faculty reports related to Title IX/DHR. We further recommend that the Title IX/DHR Office conduct an internal mapping exercise of their internal processes to address inefficiencies and gaps in the response processes and to prioritize supportive measures, timeliness and informed and consistent communications.

**Prevention and Education:** East Bay's approach to prevention and education has been organic and *ad hoc*, rather than strategic. The responsibility to provide required education and prevention training has been shared across several areas of the campus – including the Campus Confidential Advocate, and the Title IX/DHR Office. As a consequence, prevention and education has not been provided in a manner that effectively delivered necessary content or reached required audiences. Further, some programming had not been provided for nearly a year due to a vacancy in the Confidential Advocate role. To begin to address this gap, the President has recently established a Title IX/DHR Training Coordinating Committee to coordinate campus efforts. We recommend that the university build on the strategic work of this committee by designating a prevention and education coordinator; dedicating resources for programming; and creating a coordinated, compliant and formal prevention and education program to ensure that the programming is timely provided and aligned with institutional needs and legal requirements.

**Responding to *Other Conduct of Concern*:**<sup>3</sup> As with other CSU universities, East Bay grapples with conduct issues that do not rise to the level of a policy violation, but nonetheless are disruptive to the living, learning, and working environment of the campus community. East Bay has no consistent or formalized mechanism for navigating these

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<sup>3</sup> We use the term *other conduct of concern* to refer to conduct that may not rise to the level of protected status 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.

behaviors, which we refer to as *other conduct of concern*. As a result, the university triages reports of these behaviors in disparate departments, and in an *ad hoc* manner, leading to inconsistent responses and an overall lack of accountability. We recommend that East Bay work closely with the Chancellor's Office to develop an informed and legally sound formal process to address reports of *other conduct of concern*. This formal process, should strengthen and expand conflict resolution competencies and remedial options; create a centralized and anonymous reporting mechanism at the university level; and establish a formal triage and review process that ensures appropriate analysis, documentation, and tracking for consistency, responsiveness and accountability.

#### **IV. The Title IX and DHR Office**

##### **A. Infrastructure**

[East Bay's Title IX and DHR Office](#) has been in a state of transition for the past two years. While internal leadership in the Title IX function has remained constant since 2015, the DHR Administrator position has been filled on an interim basis since June 2022. In addition, the Office has shifted reporting lines multiple times. The Title IX Coordinator and DHR Administrator previously reported to Risk Management. In February 2021, the Title IX and DHR Office moved under the Diversity Office, and at the time we met with the Title IX Coordinator in October 2022, reported to the AVP of Human Resources & Payroll Services. The Title IX Coordinator now reports directly to President Sandeen.

Currently, the Title IX Coordinator is also the Interim DHR Administrator. She has been with the University since 2015, as the Title IX Coordinator, and has served as the Interim DHR Administrator since June of 2022. We learned that the campus is recruiting for the DHR Administrator position with a hope of filling the position by July 2023. The Title IX Coordinator/Interim DHR Administrator is responsible for responding to reports of conduct that may violate the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence and Retaliation](#) (Nondiscrimination Policy). The Title IX Coordinator/DHR Administrator also handles formal complaints related to disability and accessibility concerns.

The Title IX and DHR Office currently consists of the Title IX Coordinator/Interim DHR Administrator, and one additional employee who provides full-time office support (database and administrative support). The Title IX Coordinator/ Interim DHR Administrator's job duties include the provision of supportive

measures, intake, and investigations of Title IX and DHR Cases. Since the Title IX Coordinator is the only in-house investigator, many cases are outsourced to an external investigator. The administrative support staff person assists with initial response to outreach, updates to the shared drive and tracking spreadsheet as time allows, and provides other administrative functions as needed. We understand that the team is still growing, and there are more changes and updates to come, including hiring a DHR Administrator. We note that in order to meet the needs of the campus, the University must supplement the current team to include individuals to fill functions related to intake and supportive measures, investigations, prevention and education, and allow the administrative support role to take on more expansive documentation and data-related tasks. This staffing structure will support the following essential elements of effective practice: increased separation between the care and support function and the adjudicatory function; staffing for the necessary function of education coordinator to maintain accountability for the delivery of all education and training requirements; and data input, tracking and additional administrative support for the team.

Under the Nondiscrimination Policy, the Title IX Coordinator is responsible for “coordinating training, education, and preventive measures,” which may be delegated to a Deputy Title IX Coordinator.<sup>4</sup> Even if responsibilities are shared with a Confidential Advocate, the Title IX Coordinator “remains primarily responsible for all campus-based prevention and awareness activities.”<sup>5</sup> The Nondiscrimination Policy further provides: Confidential Advocates may serve on campus-based task force committees/teams to provide general advice and consulting, participate in prevention and awareness activities and programs, and play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing campus-wide awareness and outreach activities, possibly including prevention activities.<sup>6</sup>

This level of coordination and oversight is not occurring at East Bay, nor at most universities across the system. When we visited campus, we learned that, historically, the Confidential Advocate had primary responsibility for the university’s prevention and education programming. Given resource constraints, the

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<sup>4</sup> See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

<sup>5</sup> See Attachment C: Confidential Sexual Assault Victim's Advocates.

<sup>6</sup> *Id.* Under Attachment C, all awareness outreach activities must “comply and be consistent with University policies” and the Advocate is required to “partner and collaborate with the Title IX Coordinator to ensure the activities comply with CSU policy and are consistent with campus-based practices.”

approach was *ad hoc*, organic, and unstructured. At the time of our visit, there was no one in that role, and the campus had been trying to recruit a Confidential Advocate for almost a year. As a consequence, prevention and education training requirements were not fulfilled.

The Title IX and DHR Office has access to Maxient, but, as of March 2023, Maxient has not been fully integrated as the sole case management system of record. The Office uses a shared drive and spreadsheet to track and document cases.

Each of the 23 CSU universities maintains data about the nature of reports, resolutions, and other demographics, albeit in inconsistent and varied manners. Each of the 23 CSU universities also produces an annual report and shares data with the Chancellor's Office. An overview of the metrics from the Title IX annual reports is included in Appendix III.

#### **B. Visibility and Community Awareness of the Title IX & DHR Office**

As we noted above, the Title IX and DHR Office used to be located within Human Resources, which posed a potential barrier for students to access. When we were on campus in October 2022, the Title IX and DHR Office did not have an entry in the building directory in which it was located, so even if a student, staff or faculty member wanted to visit the office in person, it would have been difficult to locate. We understand that the office has recently moved to the ground floor of the Student Services and Administration Building, which should be a more accessible place and easier to locate. The current location also has more privacy for interviews and meetings. In addition to the physical challenges to visibility, prior to the shift in reporting lines to the President, there was no centralized effort to bring awareness to the core function and importance of the institutional commitment to the response to and prevention of discrimination and harassment. We note that the current administration has brought awareness and visibility to Title IX and DHR, including the creation of the Title IX/DHR Implementation and Coordinating Committee, and the Title IX/DHR Training Coordinating Committee. Both of these committees will bring multidisciplinary awareness to the office.

#### **C. Website**

At the time of our review, the East Bay website presence related to TIX, DHR, and accompanying resources, support, and services needed significant revision for accuracy, effective messaging and

accessibility. During the review period, the University made significant changes to the website and those efforts are ongoing. For a list of detailed updates, see Recommendations, Section C. 3.3 of this report.

#### **D. Reporting Options**

Reports of prohibited conduct based on protected statuses, including discrimination, harassment, and retaliation, may be made to OPHD in person, via email, telephone, or an [online reporting form](#)<sup>7</sup> that is accessible on [the Title IX/DHR Office's website](#). There is one combined online reporting form, which is used for reports of both sexual misconduct and discrimination, harassment, and retaliation based on other protected statuses. We note that the use of a single form for reports of all types of protected status misconduct simplifies the process for individuals seeking to make a report.

The online reporting form does not explicitly state that users may submit information anonymously, although it informs users that they are not required to complete the entire form in order for the complaint to be submitted. It instructs users that all sexual misconduct reports will be routed directly to the Title IX Coordinator but does not instruct where reports related to other forms of misconduct are routed. In addition, as described in the Systemwide Report, the online reporting form, as written, asks for detailed information in required sections, can be intimidating and might discourage a complainant from completing the form.

#### **E. Case Processing**

We learned that when a report comes into the Title IX and DHR Office, the Title IX Coordinator/Interim DHR Administrator is immediately notified. If the report implicates Title IX, she then sends an email containing resources and options to the complainant; if it is a DHR-related case, she sends an email to the individual to set up a time to meet. The Title IX Coordinator/Interim DHR Administrator also documents these steps as time allows. The Title IX Coordinator/Interim DHR Administrator also offers, implements, and documents supportive measures. The Title IX Coordinator/Interim DHR Administrator is responsible for facilitating supportive measures that are administered through the university, such as extensions for assignments or an excused absence. The Title IX Coordinator/Interim DHR Administrator makes outreach to the Confidential Advocate if the Complainant requests additional external (to the university) supportive measures, such as a Temporary Restraining Order, or Protection from Abuse Order. Given the volume of

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<sup>7</sup> The CSU System publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

reports, intake responsibilities, and requests for supportive measures, it is the hope that administrative support staff will assist in assuring consistent documentation and communication.

As of June of 2022, the Title IX and DHR Office utilized external investigators for all DHR investigations, and the Title IX Coordinator/Interim DHR Administrator conducted all Title IX investigations. From our interviews, it appeared that all of the investigatory work, from determining whom to interview, to then undergoing the thorough fact-finding process, is dependent on the Title IX Coordinator/Interim DHR Administrator. As discussed below, we noted and heard significant concern about the timeliness of investigations, and in some instances, the responsiveness of the Office. The Title IX and DHR Office does not currently have internal written protocols regarding timeframes for each step in the process. We observed that timeliness of investigations is impacted by the staffing constraints and resource needs. We also learned that there are delays even before cases proceed to investigation, such as the time between a report and an intake meeting. In sum, we heard and observed that the investigation process missed required steps, and takes longer than it should at every juncture. We recommend that the Office develop written internal protocols, implement timeframes for accountability, and conduct a process mapping to identify gaps in process and opportunities to enhance timeliness.

#### F. Review of Case Files<sup>8</sup>

We reviewed samples of the following: DHR case reports, Title IX case reports, and notices of non-investigation. The reports and notices date back to 2019, and as recently as April 2022. We note timeliness as an issue in all but one case. Based on our review of files and stakeholder feedback, we learned that investigations typically take much longer than the 100 business days the Nondiscrimination Policy contemplates.<sup>9</sup> From campus partners and individuals who were a party to investigations, we learned about significant delays in responsiveness, and timeliness on the part of the Title IX and DHR Office, including one investigation that took 500 days to complete. One investigation we reviewed took 159

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<sup>8</sup> We requested to review a small sample of case files at each university to evaluate form, comprehensiveness of documentation, timeliness, and responsiveness. Given the scope of our assessment, we did not conduct an extensive audit of all Title IX and DHR records.

<sup>9</sup> According to the Nondiscrimination Policy, in a Title IX/DHR Investigation, “The Title IX Coordinator/DHR Administrator or designee will send the Final Investigation Report to the Parties within **100 Working Days** from the date that the Notice of Investigation is provided to the Parties.” The Policy allows for extensions based on “good cause as determined by the Title IX Coordinator/DHR Administrator.” see [Nondiscrimination Policy](#), Article VII. Investigations, Section A., vii *Timeframe, Extensions, and Status Updates*.

working days from the date of the report to the date that the Notice of Investigation Outcome was issued. The case was remanded following an appeal, and then an additional 81 working days passed. In total, the case took 18 months from the date of the report to the final investigation report. We note that the case was remanded on appeal for a number of reasons, including concerns about timeliness. In another case we reviewed, the intake interview of the complainant occurred seven months after the initial report. The investigation was completed one year after the report was made.

The impacts of lengthy processes impacted community perception of the Title IX and DHR Office and of the university's commitment to effective implementation. We heard from university personnel and other campus constituents that the process of an investigation is much too lengthy and that the outcome takes "months and months." One university administrator told us that she worked closely with two students involved in a Title IX investigation, and the investigation lasted "a whole semester, and maybe more." She stated that, by the end, the students had already moved on, "they were frustrated that they had to revisit the topic." Another university administrator told us that the process with Title IX/DHR takes months to years to complete.

We learned that before the 2020 Title IX regulations, East Bay Title IX had not engaged in any hearings since 2015. Since the 2020 Title IX regulations, the university has held one hearing.

#### **G. Community Feedback about the Title IX and DHR Office**

We note that the Title IX Coordinator has appropriate training, longstanding experience in the area having been in this position since 2015, and positive relationships with many campus partners. She is also perceived positively by campus stakeholders who met with us. Nonetheless, this combination of positive attributes cannot withstand the avalanche of responsibilities in the significantly complex and ever changing terrain of Title IX and DHR administration. We observed that the lack of resources, and insufficient staffing prevent the consistent delivery of quality and meaningful interactions with constituents, which directly impact community perception.

When we were on campus in October, we did not observe any Title IX or DHR awareness handouts (for example, pamphlets or resource flyers) and we heard that the Title IX Coordinator/Interim DHR Administrator is not able to engage with the campus community to garner awareness of the office in a meaningful way due to her many other responsibilities. We note that President Sandeen is aware of these shortcomings and has actively taken steps to address these issues since our visit to campus. As noted

above, the creation of [the Title IX/DHR Implementation and Coordinating Committee](#) was one such step. Another is the creation of the [Title IX/DHR Training Coordinating Committee](#). In addition to the attention that these new committees will bring to the functioning of the Title IX and DHR Office, we recommend that the Title IX and DHR Office develop internal protocols and processes to prioritize care and support in order to improve the quality of the office’s interactions with constituents.

## V. Core Title IX and Related Requirements

In evaluating legal compliance and effectiveness based on the observations described above, we reviewed Title IX’s implementing regulations as the legal framework. Title IX’s implementing regulations, amended most recently in May 2020, require that educational institutions (i) appoint a Title IX Coordinator;<sup>10</sup> (ii) adopt grievance procedures that are prompt and equitable;<sup>11</sup> and (iii) publish a non-discrimination statement.<sup>12</sup> In the sections below, we describe our observations of the university’s compliance with each of these core Title IX obligations. Although the implementing regulations and regulatory frameworks are not as prescriptive under other federal and state laws that address all other protected status discrimination, harassment, and retaliation,<sup>13</sup> we incorporate the Title IX framework as it relates to these core requirements, because they apply equally to DHR programs.

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<sup>10</sup> 34 C.F.R. § 106.8(a).

<sup>11</sup> 34 C.F.R. § 106.8(b).

<sup>12</sup> 34 C.F.R. § 106.8(c).

<sup>13</sup> These include Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975. The implementing regulations for these statutes outline some requirements that are similar or identical to certain of the “core Title IX obligations.” For instance, most of the regulatory frameworks require a notice of non-discrimination. See 34 C.F.R. § 100.6(d) (Title VI), 34 C.F.R. § 104.8 (Section 504), and 34 C.F.R. § 110.25 (Age Discrimination Act), and 28 C.F.R. § 35.106 (ADA). Furthermore, the implementing regulations for the Age Discrimination Act closely mirror the core Title IX obligations in that they require educational institutions to: (i) designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities, including investigation of complaints; (ii) notify beneficiaries of information regarding the regulations and the contact information for the responsible employee; and (iii) adopt and publish grievance procedures providing for prompt and equitable resolution of complaints. 34 C.F.R. § 110.25.



## A. Title IX Coordinator

Under the current Title IX regulations, every educational institution that receives federal funding must designate at least one employee, known as the Title IX Coordinator, to coordinate the institution's Title IX compliance efforts.<sup>14</sup> In this role, the Title IX Coordinator is designated as the university official responsible for receiving and coordinating reports of sex discrimination, including sexual harassment, made by any person.<sup>15</sup> The Title IX Coordinator's role and responsibilities should be clearly defined, and the institution must notify applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the institution, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.<sup>16</sup> The Title IX regulations detail the responsibilities of the Title IX Coordinator, which include, among other things:

1. Receiving reports and written complaints;<sup>17</sup>
2. Coordinating the effective implementation of supportive measures;<sup>18</sup>
3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;<sup>19</sup>
4. Considering the wishes of the complainant with respect to supportive measures, including explaining the process for filing a formal complaint;<sup>20</sup>
5. Attending appropriate training;<sup>21</sup>

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<sup>14</sup> 34 C.F.R. § 106.8(a).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> 34 C.F.R. § 106.30(a) (defining "actual knowledge" as including notice to the Title IX Coordinator).

<sup>18</sup> *Id.*

<sup>19</sup> 34 C.F.R. § 106.44(a).

<sup>20</sup> *Id.*

<sup>21</sup> 34 C.F.R. § 106.45(b)(1)(iii) ("A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. § 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and

6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;<sup>22</sup>
7. Overseeing the prompt and equitable nature of any investigation or resolution;<sup>23</sup> and
8. Overseeing effective implementation of any remedies issued in connection with the grievance process.<sup>24</sup>

Under the Title IX regulations, guidance documents issued by the U.S. Department of Education, Office for Civil Rights (OCR), and effective practices, the Title IX Coordinator should be sufficiently positioned within the institutional organizational structure, sufficiently resourced to carry out care and compliance responsibilities, sufficiently trained and experienced, and free from conflicts of interest.<sup>25</sup> Title IX Coordinators and DHR Administrators should be positioned organizationally to operate with appropriate independence and autonomy, have sufficient supervision and oversight, and have direct or dotted reporting lines to senior leadership.

The Chancellor's Office has published guidance regarding the role of campus Title IX Coordinators. Attachment B to the Systemwide Nondiscrimination Policy mandates that campus Title IX Coordinators "shall have authority across *all* campus-based divisions and programs (e.g., Human Resources, Academic Affairs, Student Affairs, Athletics, Housing, University Police, etc.) to monitor, supervise, oversee, and ensure implementation of [the Nondiscrimination Policy] in all areas . . . ." (emphasis in original).

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grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias.")

<sup>22</sup> 34 C.F.R. § 106.45(b)(1)(iii).

<sup>23</sup> 34 C.F.R. § 106.8(a) (charging the Title IX Coordinator with "coordinating [institutional] efforts to comply" with Title IX).

<sup>24</sup> 34 C.F.R. § 106.8(a); 34 C.F.R. § 106.45(b)(7)(iv).

<sup>25</sup> These effective practices have been articulated, among other places, in a [Dear Colleague Letter](#) from the U.S. Department of Education's Office for Civil Rights on April 24, 2015. Although this Dear Colleague Letter has since been rescinded, the underlying concepts described in the letter are still instructive. The 2015 Dear Colleague Letter stated, "The Title IX Coordinator's role should be independent to avoid any potential conflicts of interest and the Title IX Coordinator should report directly to the recipient's senior leadership . . . ." The Letter further instructed that "the Title IX Coordinator must have the authority necessary to [coordinate the recipient's compliance with Title IX] and, in order to do so, "Title IX Coordinators must have the full support of their institutions . . . [including by] making the role of the Title IX Coordinator visible in the school community and ensuring that the Title IX Coordinator is sufficiently knowledgeable about Title IX and the recipient's policies and procedures."

Attachment B further requires that all campus Title IX Coordinators and Deputy Title IX Coordinators be MPPs and “have the qualifications, authority and time to address all complaints throughout the campus involving Title IX issues.”<sup>26</sup> Finally, Attachment B recommends that all campus Title IX Coordinators “be someone without other institutional responsibilities that could create a conflict of interest (e.g., someone serving as University Counsel or as a disciplinary decision maker)” and that they report to a supervisor who is a Vice President or higher.

In addition to reviewing these written guidelines applicable to the system as a whole, Cozen O’Connor evaluated whether, in practice, each Title IX Coordinator and DHR Administrator was well positioned to effectively carry out their duties. As described above, this analysis consisted of assessing whether each Title IX Coordinator/DHR Administrator was appropriately positioned organizationally; sufficiently resourced; sufficiently trained; and free from conflicts of interest.

East Bay’s Title IX Coordinator/DHR Administrator has been in this role since 2015. The Title IX Coordinator’s contact information – and that of the Title IX Office – is displayed on a university [website](#). She currently reports directly to the University President, with a dotted line to the President’s Project Manager for Title IX improvements and implementation work. We find that the Title IX Coordinator is now sufficiently positioned in the institution. We note, however, that given the far-reaching demands of the President, it may be beneficial for the Title IX Coordinator to continue to have a designated individual to consult with on a day-to-day basis in order to ensure that she is supported in her administrative functions.

In terms of resources, the Title IX and DHR Office at East Bay has only one substantive staff member, the Title IX Coordinator/Interim DHR Administrator and one administrative support person dedicated to Title IX and DHR. Consequently the office struggles with a lack of resources, as do many other offices in the CSU system. Currently, the university is recruiting for a [Senior Investigator](#) position and a full time DHR Administrator. A fully resourced office would include, at a minimum, a Title IX Coordinator/DHR Administrator, a prevention and education coordinator, a support and intake coordinator, an investigator

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<sup>26</sup>The [Nondiscrimination Policy](#) similarly defines campus DHR Administrators as “the [MPP] Employee at each campus who is designated to administer this Nondiscrimination Policy and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation.” The Nondiscrimination Policy states that the DHR Administrator “may delegate tasks to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority.”

(the need for which may increase over time or may be subsumed by the CSU Center for Investigations and Resolutions), and a full-time administrative manager. The addition of a support and intake coordinator would allow the office to have increased separation between the care and support function of the office (the support and intake coordinator) and the resolution function of the office (investigators), and would allow for a reallocation of work load to the education coordinator, who would be able to track training requirements and ensure accountability for educational efforts.

In terms of training, we observed that the Title IX Coordinator/Interim DHR Administrator has received relevant Title IX and DHR training annually since 2015. The Title IX Coordinator/Interim DHR Administrator possesses the necessary substantive subject matter fluency with respect to Title IX and DHR issues generally.

We do not note any conflict of interest in the Title IX Coordinator/Interim DHR Administrator's role or reporting line.

#### **B. Notice of Non-Discrimination**

The Title IX regulations require that institutions publish a non-discrimination statement.<sup>27</sup> The statement must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and unions that:

1. The institution does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner;<sup>28</sup>
2. The institution does not discriminate with respect to admissions or employment; and
3. Inquiries about the policy may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights in the U.S. Department of Education's Office for Civil Rights, or both.

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<sup>27</sup>34 C.F.R. § 106.8(b).

<sup>28</sup>*Id.*

Along with these notification requirements, institutions must display contact information for the Title IX Coordinator on their respective websites, and in each handbook or catalog that it makes available to all stakeholders listed above.<sup>29</sup>

East Bay has a [Notice of Non-Discrimination on the Basis of Gender or Sex](#), which, consistent with the Title IX regulations, states that the university does not discriminate on the basis of gender or sexual orientation in its education programs and activities, including employment and admissions. According to the Notice, this prohibition on discrimination extends to sexual harassment, sexual misconduct and gender based dating and domestic violence, and stalking. The Notice provides the required contact information, for the campus Title IX Coordinator and OCR, to individuals seeking to report sex discrimination. This Notice is linked on the footer of the main East Bay website and the footer of other university pages as well, including Admissions and Student Life. The notice is not linked on the Athletics webpage.

Separately, outside of the Nondiscrimination Policy, East Bay does not publish on any of its websites, including the Title IX and DHR Office's website, a broader Notice of Nondiscrimination on the basis of protected statuses other than sex and gender. Publishing a broader Notice of Nondiscrimination is consistent with the purpose of Title VI and VII of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and other relevant federal and state laws prohibiting protected status discrimination, harassment, and retaliation.

### **C. Grievance Procedures**

Finally, the Title IX regulations require educational institutions to “adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited [as sex discrimination under Title IX] and a grievance process that complies with [34 C.F.R. § 106.45] for formal complaints . . . .”<sup>30</sup> The regulations further require educational institutions to provide notice of the grievance procedures and process, including how to

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<sup>29</sup>34 C.F.R. § 106.8(b)(2).

<sup>30</sup>34 C.F.R. § 106.8(c).

report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond to such a report or complaint.<sup>31</sup>

CSU's Chancellor's Office maintains the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#). Consistent with its obligations under Title IX and other federal and state laws prohibiting protected status discrimination, harassment, and retaliation, this document sets forth the grievance procedures and process for resolving reports of sex discrimination, as well as other protected status prohibited conduct. Pursuant to the Nondiscrimination Policy, there are three separate tracks for formal resolution of complaints. Specifically, "Track One" applies to reports of sexual harassment that fall within the federal mandated hearing process required under the 2020 Title IX regulations; "Track Two" applies to reports of sexual misconduct, dating violence, or domestic violence against a student where credibility is an issue, that fall within the mandated hearing process articulated in California case law; and "Track Three" applies to all other reports that allege a violation of the Nondiscrimination Policy.

This Nondiscrimination Policy, which applies to all 23 CSU universities, is an omnibus policy document that maps the complex and overlapping procedural requirements mandated by several federal and state frameworks, including the federal Title IX regulations, California state law relating to sex discrimination and sexual harassment in higher education, California case law relating to due process, and other federal and state laws relating to discrimination based on other protected statuses. Although the Nondiscrimination Policy is consistent with the legal requirements of Title IX and the related federal framework for discrimination and harassment on the basis of protected statuses, Title IX/DHR professionals and campus constituents from every university consistently expressed to Cozen O'Connor that the Nondiscrimination Policy was impenetrable in practice; that it was dense, lengthy, and difficult to navigate; and, that it bred confusion. We heard a strong desire for the Chancellor's Office to simplify its procedures, and were optimistic that the forthcoming amendments to the federal Title IX regulations, expected to be released by the U.S. Department of Education in the fall of 2023, would provide the impetus for the Chancellor's Office to do so.

We also learned from faculty and administrators that the CSU's consensual relationships policy, which is embedded within the Nondiscrimination Policy, is not adequately communicated to the campus

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<sup>31</sup>*Id.*

community, limited or no training is offered on the prohibition, and the prohibition is not enforced.<sup>32</sup> Given the significant overlap of the prohibited relationship policy with Title IX, and DHR and *other conduct of concern*, attention should be given to the training and enforcement of this prohibition. We recommend that training on this section of the policy be incorporated into required training and education.

## **VI. Campus Coordination**

We observed that Title IX/DHR and campus partners all demonstrated a willingness to collaborate. When we were on campus, we learned that campus partners such as Student Conduct and Housing and Residence Life meet regularly with the Title IX and DHR Office and discuss issues as they arise. However, misunderstandings about how, what, and with whom, information can be shared have led to campus partners duplicating efforts and at times conducting multiple investigations simultaneously regarding the same conduct. For example, there are instances in which Housing, Student Conduct, and Title IX and DHR may all have open investigations into the same conduct. These misunderstandings lead to unnecessary redundancies for constituents and administrators, resulting in missed opportunities to respond effectively and intervene efficiently.

A coordinated multidisciplinary team which receives the necessary training and support can ensure that information is shared appropriately and quickly with “need to know” partners. Currently, there is no routinized process (through documentation systems or coordinated oversight) to ensure that all possible Title IX/DHR related reports get to the Title IX Coordinator/Interim DHR Administrator.

We also noted that the use of Maxient was not consistent among campus partners. We understand that the Title IX and DHR Office will be receiving training on Maxient in the summer of 2023 and will be fully operational by the fall of 2023. We see this as another opportunity to ensure that campus partners coordinate and share information in real time. We recommend that the Title IX and DHR Office has access to the Maxient records of campus partners in order to appropriately assess for informed responses, risk, climate and pattern in all reports. A formalized, effective MDT and an enterprise level system with shared

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<sup>32</sup> Under Article II, Section F of the [Nondiscrimination Policy](#), a “Prohibited Consensual Relationship” is defined as “a consensual sexual or romantic relationship between an Employee and any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority.”

access for need-to-know administrators will ensure that all reports are routed appropriately and prevent the duplication of effort associated with multiple investigations.

#### **A. University Police Department**

The [University Police Department \(UPD\)](#) is professionally trained to fulfill the public safety needs of the campus Community. The department has primary responsibility for public safety on the Hayward and Contra Costa Campuses and one mile beyond its borders. University Police Officers are sworn Peace Officers. Safety Services and Programs include building access, safety escorts, vehicle assistance, and assistance with events. The University Police Department's website provides informational [safety and security reports](#). The staff includes a Chief of Police, a Lieutenant, an Administrative Operations Analyst, an Administrative Analyst, four Sergeants, two Corporals, six Police Officers, two Community Service Officers, a Manager of Parking and Transportation Services, a Parking Coordinator, two Parking Officers, and a Community Coordinator.

We learned that UPD has the authority and capability to investigate sexual or gender-based violence that occur on campus. UPD is trained to handle their own cases from investigation to charging. UPD officers directly contact the charging Assistant District Attorney regarding campus investigations. We learned that consistent with California Penal Code 293, UPD will honor a complainant's wish to maintain confidentiality and not include the complainant's name in the report sent to Title IX.

#### **B. Student Conduct**

East Bay's [Student Conduct, Rights & Responsibilities](#) Office (Student Conduct) administers the student code of conduct. The office is staffed by a Director, who began as the interim Director in August of 2022. The Director of Student Conduct reports to the Dean of Students, and is located administratively within the [Student Affairs Division](#). She has been at the university since 2005, working with students in affinity groups and student organizations. We learned that Student Conduct and the Title IX and DHR Office work together in student cases in varying ways, including providing supportive measures and determining appropriate sanctions in Title IX cases in which a student has been found responsible. We observed and heard about misunderstandings among Student Conduct, Housing and Residence Life, and the Title IX and DHR Office regarding privacy and what information can and cannot be shared, resulting in parallel investigations for the same conduct. As discussed in greater detail, below, we recommend a formal



multidisciplinary team (MDT) with coordinated information sharing in order to create more informed, fluent, and collaborative partnership that pools resources and works together.

### **C. Housing and Residence Life**

According to its webpage, East Bay's [Student Housing and Residence Life](#) (Housing) works to engage all residential students in their holistic development and academic success towards retention, graduation, and future endeavors. The website includes information for prospective residents, current residents, forms and policies, dining services, conference services, and more.

We learned that Resident Assistants (RAs) and other staff are required to take a yearly training on Title IX and the responsibility to report as a responsible employee. We heard that staff take their responsible employee requirements seriously, and have no issues with contacting the Title IX and DHR Office. We also learned that RAs and other employees feel disconnected after making a report, as the office does not provide any feedback following the report. We note the importance of "closing the loop" with the individual who reported to Title IX, not only to acknowledge receipt of the report, but to build trust with campus partners by sharing some form of follow-up, even if only to communicate that the matter has been addressed.

### **D. Faculty Affairs/Academic Affairs**

The Office of Academic Affairs at East Bay is overseen by the Provost and Vice President for Academic Affairs (Provost). The Provost joined the campus in July of 2022, and his role is to oversee the four colleges, the Concord Campus, University Extension, the Libraries, Research and Sponsored Programs, the Academic Senate, Academic Programs and Graduate Studies, Undergraduate Studies, General Education, and Faculty and Student Support Services. The Associate Provost for Faculty Affairs oversees the Office of Faculty Development and the Center for Community Engagement.

The current Associate Provost for Faculty Affairs previously held the position of campus Ombudsperson for five years, a position that is currently vacant. At the time that we visited campus, the Associate Provost for Faculty Affairs was in that role for three months. She was just learning the different systems and ways of tracking information within her office, and how to work with campus partners such as Title IX/DHR and Human Resources. We learned that information regarding conduct of faculty will be reported to Faculty

Affairs and that Human Resources handles faculty benefits, payroll and the like. We heard that Faculty Affairs does not currently have a way to address *other conduct of concern*.

#### **E. Human Resources**

East Bay's Human Resources (HR) is overseen by the Associate Vice President of Human Resources & Payroll Services. When we were on campus, the Title IX Coordinator reported to the AVP of Human Resources & Payroll Services, but since that time, the reporting has changed, and the Title IX Coordinator reports directly to the President. Under the AVP of Human Resources & Payroll, are the HR functions of the university, including: Employee Separation Clearance Process, New Employees, Benefits, Classification and Compensation, Employment Opportunities, Forms and Procedures, Labor and Employee Relations, Policies, HR Manager Assignments, Training and Development, Payroll, Worker's Compensation, and Accommodations.

HR at East Bay is organized administratively so that each department is assigned an HR Manager who works centrally in HR. There are four managers in total, so each has a significant number of departments to cover. The labor and employee relations role of HR at East Bay, includes administering the staff collective bargaining agreements, and providing counsel related to progressive discipline and work performance issues.

We learned that HR grapples with how to handle the situations in which conduct does not rise to the level of a possible policy violation of Title IX/DHR. We heard that most of the time, HR does not learn about *other conduct of concern* until after an incident or conduct is reported to Title IX/DHR and then sent to HR. Further we learned that *other conduct of concern*, if it is first reported to HR, is not uniformly documented or shared consistently from HR to Title IX/DHR, a practice that precludes effective tracking of patterns and emerging risks.

#### **F. Clery Act Responsibilities**

The Director of Administrative Processes at East Bay serves as the University's Clery Director, and supported by the Clery/Records Coordinator. [Clery](#) compliance is maintained by the Clery Director and Records Coordinator in conjunction with the Clery Workgroup and the Clery Compliance Team. The Clery Director has received training from the Clery Center, and receives support from the systemwide Clery Director on a regular, on-going basis. The Clery Director coordinates the annual training for campus

security administrators (CSAs) and has received 100% compliance in this area. We learned that the UPD Chief has full authority to issue a timely warning. A timely warning matrix is completed in each case that is assessed. The Clery Director is also responsible for preparing the university's [Annual Security Report](#).

## **VII. Campus Resources for Students and Employees**

The care side of campus resources is critically important to the effective functioning Title IX and DHR programs. East Bay provides the following resources dedicated to supporting student and employee well-being.

### **A. Confidential Advocates<sup>33</sup>**

The current Confidential Advocate started at East Bay in late November 2022. When we visited campus in October 2022, the University was in the midst of a search for a Confidential Advocate, as there had not been an individual in this role since December 2021.

According to the East Bay website, the [Confidential Advocate](#) provides crisis counseling and advocacy for survivors and those impacted by sexual violence including sexual harassment, dating and intimate partner violence, sexual assault, stalking, and sexual exploitation. The Advocate serves the entire campus community; students, faculty, staff and affiliates. The Advocate is a confidential resource who can talk through reporting options for these incidents. They also provide support and accompaniment to Title IX hearings and meetings, court proceedings, hospital exams, and law enforcement interviews, as well as helping to secure accommodations on campus when needed. The website provides a link to a feedback form, information on mental health counseling, and resources for sexual violence.

The Confidential Advocate also provides prevention training for the campus community, including staff, faculty, and students. As noted above, the responsibility to provide required education and prevention training has been shared across several areas of the campus – including the Campus Confidential Advocate, and the Title IX and DHR Office. As a consequence, prevention and education has not been provided in a manner that effectively delivered necessary content or reached required audiences. Further,

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<sup>33</sup> The Campus Care Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

some programming had not been provided for nearly a year due to a vacancy in the Confidential Advocate role.

### **B. Respondent Support**

East Bay does not currently offer any expressly designated Respondent support, however, we learned in early May 2023 that the Case Manager in Counseling Services is also assisting as a Respondent Advocate on an as-needed basis. The campus website also provides a guide with information for student respondents. [The Guide for Student Respondents in Sexual Assault, Sexual Harassment, Dating and Domestic Violence, Sexual Exploitation, and Stalking matters](#), provides information on prohibited conduct, reporting, supportive measures and accommodations available, confidentiality, and the ability to be connected to a Respondent Support Person. Confidential resources are linked in the guide, including Counseling and Psychological Services and the Student Health Center. The guide provides information on the investigative and resolution process, and additional on- and off-campus resources. We also learned about an initiative to bring formal respondent support services on board that was temporarily paused in favor of training. We recommend reviving this effort for respondent support.

### **C. Counseling Services**

All currently registered students of East Bay are eligible to use Counseling Services. Counseling Services does not serve faculty or staff. The Counseling Services [website](#) includes information on online resources, self-help videos, and on-campus resources. Counseling Services offers individual counseling, group counseling, couple's counseling, crisis support, and online mental health screenings. Counseling Services also has embedded counselors in Housing, Student Equity and Success, and at the Concord campus.

The Counseling staff includes a lead counselor, a case manager, six counselor faculty, an associate counselor in Housing, an associate counselor in Student Equity and Success, three associate counselors, and a Director of Counseling Services. Like most of the counseling centers in the CSU, East Bay's Counseling Services uses a brief-intervention model and provides up to 10 sessions of individual counseling in an academic year. The Confidential Advocate reports administratively to Counseling Services.

### **D. Student Health Services**

[Student Health & Counseling Services](#) (SHS) is fully accredited by the Accreditation Association for Ambulatory Health Care (AAAHC) as an outpatient clinic. SHS is staffed by Board Certified Physicians,

licensed Nurse Practitioners, and Medical Staff. SHS offers basic medical care for most illnesses and injuries and various elective services. You must be a regularly enrolled student or a non-regularly enrolled student to be eligible to use Student Health & Counseling Services. Services include ADHD treatment, Gender Affirming Care, Immunizations, Men's and Women's Health, Radiology, Sexual Health, and more.

Staff dedicated to SHS include, clinical assistants, physicians (including a Board Certified Psychiatrist), medical assistant, nurse practitioners, pharmacists, lab assistants, and a registered nurse. Both telehealth and in-person appointments are available. Counseling Services, and Student Wellness Services, are under the administrative umbrella of SHS, both are discussed below.

According to university partners, student health services sees about 500 students per week, on average. We learned that SHS has a protocol in place when a patient comes to SHS and reports sexual assault or dating violence. The protocol is to first call UPD, and if needed, UPD will transfer the individual to the local hospital emergency room. We learned that the training received by SHS includes the annual on-line Title IX Training, and the staff recently received training on the chaperone and attendance policy implemented by the system.

#### **E. Ombuds**

When we visited campus in October, we learned that the Ombuds position was currently vacant. We heard from many constituencies about their desire to have an Ombuds position on campus. According to the East Bay Ombuds [website](#), the office is in the process of updating this service and transitioning to a new program structure.

#### **F. Additional Resources for Students**

Students have access to a number of on-campus resources that are linked to on the Title IX [website](#). In addition to those resources previously identified (the [Counseling Services](#), [SHS](#), and the [Confidential Advocate](#)), there are various [affinity groups](#) and other relevant on-campus resources, such as:

- East Bay [Student CARES Team](#): The CARES team assists in gathering and coordinating resources for at-risk students. The team receives referrals regarding students who are in need of intervention and assistance, based on a wide variety of concerns. The CARES team plans what interventions are needed, based on a holistic view of the student. Support services and appropriate university responses are provided to the at-risk student.

The CARES webpage provides [information](#) for Basic Needs Resources, Academic Support, Academic Accommodations, Mental Health Support, Financial Emergency, and Sexual Violence Support. The website provides a link to make a [Student of Concern Report](#). The SCT is composed of the following standing members: Associate Vice President, Equity and Belonging & Dean of Students; Associate Vice President, Student Affairs and Auxiliary Services; Director of Student Conduct, Rights and Responsibilities; Director, Counseling Services; CARES Team Case Manager; Associate Dean, College of Business and Economics; Associate Dean, College of Education and Allied Studies; Associate Dean, College of Letters, Arts, and Social Sciences; Associate Dean, College of Science; Director of Accessibility Services; Director of Recreation and Student Wellbeing; Associate Provost; Title IX Coordinator; and a Representative for the University Police Department.

- East Bay’s Basic Needs Program is called [Pioneers for HOPE](#) (Helping Our Pioneers Excel). The program serves students who are facing housing insecurity, food insecurity and other crisis situations. The resources include the Clothing Closet, which provides a steady source of clothing in good condition. Additional resources include Emergency Assistance which provides funds to students who may need assistance with living expenses. Additionally, the university has a food pantry which is available for East Bay students.

A list of other student campus resources can be found [here](#).

### **G. Additional Resources for Employees**

East Bay offers an [Employee Assistance Program](#) (EAP) for all employees of the university. The EAP provides a free, confidential referral and counseling service for employees and eligible dependents. The EAP program, called “LifeMatters,” is available 24 hours per day. The EAP includes the following services: three sessions of counseling per incident of concern per individual; free half hour consultation with an attorney over the phone or in person, and reduced rate for services after the half hour; child and elder care referral services; financial resources for debt reduction, and healthy lifestyle change support.

### **VIII. Prevention, Education, Professional Development, Training and Awareness<sup>34</sup>**

Under the Nondiscrimination Policy, the Title IX Coordinator is responsible for “coordinating training, education, and preventive measures,” which may be delegated to a Deputy Title IX Coordinator.<sup>35</sup> Even if responsibilities are shared with a Confidential Advocate, the Title IX Coordinator “remains primarily

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<sup>34</sup> The legal and regulatory framework, which sets forth requirements under federal and state law, is outlined in Section VII.B.2. of the Systemwide Report, Legal Framework re: Prevention and Education.

<sup>35</sup> See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

responsible for all campus-based prevention and awareness activities.”<sup>36</sup> The Nondiscrimination Policy further provides: Confidential Advocates may serve on campus-based task force committees/teams to provide general advice and consulting, participate in prevention and awareness activities and programs, and play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing campus-wide awareness and outreach activities, possibly including prevention activities.<sup>37</sup>

This level of coordination and oversight is not occurring at East Bay, nor at most universities across the system.

Primary and ongoing prevention and awareness programming as well as bystander intervention programming required by the Violence Against Women Reauthorization Act of 2013 (VAWA), which amended the Clery Act, is offered primarily by the Campus Confidential Advocate. Wellness Services offers additional programming. As noted above, the programming in this area has been *ad hoc* and sporadic, and worse, virtually non-existent for some time given the long-term vacancy in the Confidential Advocate role and the underresourcing of the Title IX Coordinator/Interim DHR Administrator. East Bay has articulated that prevention and education programming is an area of focus going forward, and with the creation of the Title IX/DHR Training Coordinating Committee, the university will be working to coordinate all training and education across campus.

#### **A. Students**

Across the CSU, all students are assigned completion of an online training every year. We heard mixed reviews regarding the training and its effectiveness. We heard from students who told us that they appreciated the on-line nature of the training, since they are very busy, and attending a live training would be challenging. We heard from other students who told us that the training is not effective, with a common refrain that the trainings include “the same materials over and over again.” We heard that the

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<sup>36</sup> See Attachment C: Confidential Sexual Assault Victim's Advocates.

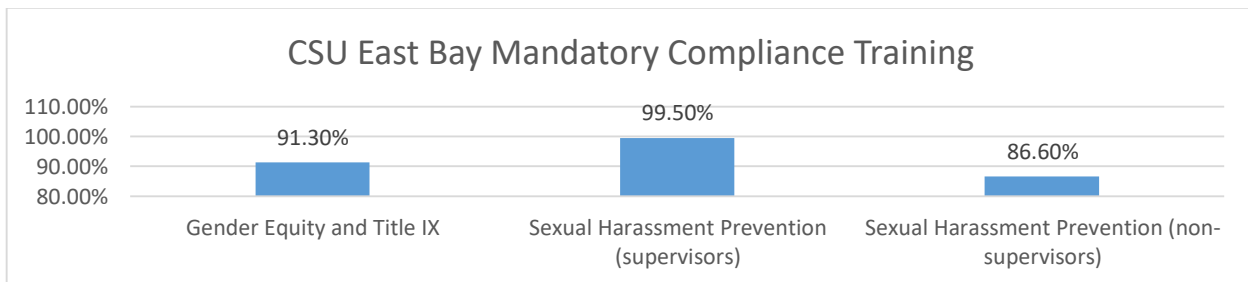
<sup>37</sup> *Id.* Under Attachment C, all awareness outreach activities must “comply and be consistent with University policies” and the Advocate is required to “partner and collaborate with the Title IX Coordinator to ensure the activities comply with CSU policy and are consistent with campus-based practices.”

scenarios and the videos presented in the training do not reflect the life experience of students at East Bay.

## B. Employees

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 the 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 each university for the 2022 calendar year:<sup>38</sup>



As at other CSU universities, we also noted the need for expanded professional development and training opportunities for faculty and staff.

## C. Coordination

In addition to the above required on-line trainings, the newly-established Title IX/DHR Training Coordinating Committee has planned additional trainings to offer to the campus community. These trainings, presented by the Confidential Advocate and the Title IX Coordinator/Interim DHR Administrator, include: trainings for international students, training for the Associated Students Inc. (ASI), Affirmative

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<sup>38</sup>These percentages have been validated by each CSU university. Please note employees designated by their university as "on leave" were removed from these final percentages.



Consent trainings offered to the student body, and trainings for faculty on reporting responsibilities. The Committee also coordinated trainings for faculty and students from the local District Attorney's office regarding violence, awareness, and education. The Committee has also coordinated marketing programming since January 2023. These campaigns include: campus-wide bathroom stall stickers ("You are not alone"); social media communications focused on healthy relationships; Public Service Announcements for violence prevention ("It's on Us"); social media communications from Know Your IX; and Sexual Assault Awareness Month activities and tabling during April 2023. And notably, in Oct 2022, we were able to witness first-hand the energy, engagement, and investment of the Wellness staff in prevention and awareness efforts, when we attended an event presented by their team and their student peer advocates for wellness. The event featured sexual assault awareness programming, including a quiz on consent.

Prior to the creation of the Title IX/DHR Training Coordinating Committee, the university did not have a comprehensive calendar to track upcoming and completed trainings. It is our understanding that this group will be tracking and planning all necessary and recommended trainings and education programming across campus. Our recommendations provide additional opportunities to track and plan for training and prevention programming and collaborate with campus partners.

#### **IX. Other Conduct of Concern**

We use the term *other conduct of concern* to refer to conduct that may not rise to the level of protected status 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.

East Bay, as with the other universities in the CSU system, and nationwide, has grappled with how to address conduct issues that do not meet the threshold of policy violations under Title IX or DHR, but are, nonetheless harmful to the fabric of the campus culture. Across the country, campuses have been contending with how to address issues related to civility, bullying, protected speech that negatively

impacts others, and words and actions that may technically be misconduct, but do not meet the criteria of being sufficiently persistent, severe, and/or pervasive.

During our meetings with campus partners, *other conduct of concern* was discussed at length. We heard from many university constituents, that in order to address the *other conduct of concern*, options for how to address these incidents must be made available for those experiencing harm, and presently, there are very few. We understand there has been discussion among those in Student Services that restorative justice options would be a valuable tool for those impacted by this type of conduct.

In early May 2023, we learned that the university is now implementing a protocol to document and begin to address this conduct. The protocol requires the Title IX Coordinator/Interim DHR Administrator to refer the report of the *other conduct of concern* to the appropriate campus partner, which would be the Director of Student Conduct, if the individual is a student; the Vice Provost for Faculty Affairs, if the individual is a faculty member; or the department's HR Manager, if the individual is a staff member. These campus partners are to counsel the individual about the documented behavior. This counseling conversation is then documented in the Maxient case management system. The documentation in Maxient will allow for data to be maintained and cross-referenced. Trends will be shared at least twice per year with the Title IX/DHR Implementation and Coordinating Committee and the Title IX/DHR Training Coordinating Committee. The trends will also be shared with the University's Diversity Office, and the President's cabinet to inform future awareness and education initiatives. We commend this effort as a very positive step towards addressing *other conduct of concern*, and recommend that the university build on the efforts of this protocol when making further improvements in addressing this behavior.

## **X. 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 university 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.

#### **A. Infrastructure and Resources**

We offer the following recommendations to address infrastructure challenges at the campus level:

1. Work with the Chancellor's Office to develop a project plan for addressing gaps and implementing recommendations
2. Share existing budget line information with the Chancellor's Office, including historic and anticipated annual fees for external investigators, hearing officers, and other Title IX/DHR related resources, as well as budget line information related to the confidential campus advocates, prevention and education specialists, and respondent resources (recognizing that these resources are typically outside of the Title IX/DHR budget)
3. Map functions within the Title IX/DHR program to ensure sufficient personnel to cover all core functions, including: intake and outreach, case management, investigations and hearings, informal resolution, sanctions and remedies, prevention and education, training, data entry and analysis, administrative tasks, and additional resources to support legally-compliant, effective Title IX/DHR programs, as well as the essential care side of campus responses
  - 3.1. In order for the office to be sufficiently resourced, we recommend that the university supplement Title IX/DHR team with the following necessary personnel and resources: a prevention and education coordinator, a support and intake coordinator, an investigator (the need for which may increase over time or may be subsumed by the CSU Center for Investigations and Resolutions), and a full-time administrative manager. The addition of a support and intake coordinator would allow the office to have increased separation between the care and support function of the office (the support and intake coordinator) and the resolution function of the office (investigators), and would allow for a reallocation of work load to the education coordinator, who would be able to track training requirements and ensure follow through.
4. Based on benchmarking and recommendations from the Chancellor's Office, identify recurring baseline (or line item) funding (both source and amount) for the Title IX/DHR program
5. Work with the Chancellor's Office to implement an enterprise-level case management system and develop protocols for consistent collection and retention of data
6. Ensure an adequate supervisory model that includes a routine cadence of supervisory meetings, guidance about how to ensure effective oversight and accountability measures, an appropriate level of detail for review, development, integration and tracking of decision-making frameworks, and balancing implementers' independence and autonomy with the need to identify and elevate critical issues and concerns about safety/risk

7. Commit to the consistent investment in professional development and continuous learning for Title IX and DHR professionals and senior leaders who oversee the Title IX/DHR program (CLEs, conferences, system training, etc.)
8. Identify a sustainable model to provide respondent support services

### **B. Strengthening Internal Protocols**

We offer the following recommendations to promote accountability and strengthen internal protocols within the Title IX/DHR program:

1. Coordinate with the Regional Director, Systemwide Title IX/Civil Rights Division, and subject matter experts to:
  - 1.1. Map the case resolution process from reporting and intake through to investigation and resolution process
    - 1.1.1. Compare the current process against standard practices and identify any concerns related to timeliness, conflicts, gaps in communication, or gaps in consistent process
    - 1.1.2. Identify, map, and reconcile intersections with faculty/staff grievance and disciplinary processes
  - 1.2. Develop robust intake, outreach, and case management protocols for supportive measures and resources
    - 1.2.1. Develop internal protocols and written tools (e.g., templates and checklists) for intake and outreach, oversight of supportive measures, and decision-making regarding emergency removal or administrative leave
    - 1.2.2. Seek to hold an intake meeting with all individuals who make a report of conduct that would potentially violate the Nondiscrimination Policy
    - 1.2.3. Develop protocols for notifying and coordinating with the confidential advocate at the intake meeting, if possible
    - 1.2.4. Develop or update protocols for information sharing to ensure that the Title IX/DHR Office can fulfill its responsibility of documenting all supportive measures offered, requested, implemented, and if denied, the reasons for the denial
    - 1.2.5. Create a feedback loop to acknowledge responsible employee reports and confirm receipt of the report and next steps
    - 1.2.6. Establish standardized protocols for outreach to complainants that involve multiple modalities, systems to document outreach, and a protocol for how and when to make additional outreach in cases with non-responsive complainants, including the potential for outreach through a third-party or a responsible employee
  - 1.3. Develop integrated, written processes for initial assessment designed to evaluate known facts and circumstances, assess and implement supportive measures, facilitate compliance with Title

IX and Clery responsibilities, and identify the appropriate institutional response after triaging the available and relevant information; as part of the initial assessment, the Title IX Coordinator/DHR Administrator should:

- 1.3.1. Take steps to respond to any immediate health or safety concerns raised by the report
  - 1.3.2. Assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation and the appropriate manner of resolution under the Nondiscrimination Policy
  - 1.3.3. Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the complainant, the respondent, any witness and/or any other individual with knowledge of the reported incident
  - 1.3.4. Provide the complainant with both oral and written information about on- and off-campus resources (including confidential resources), supportive measures, the right to contact (or decline to contact) law enforcement or seek a civil protection order, the right to seek medical treatment, the importance of preservation of evidence, the right to be accompanied at any meeting by an advisor of choice, and an explanation of the procedural options available
  - 1.3.5. Refer the report to appropriate campus officials to assess the reported conduct and determine the need for a timely warning or other action under the Clery Act
  - 1.3.6. Assess the available information for any pattern of conduct by respondent
  - 1.3.7. Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns)
  - 1.3.8. Explain the policy prohibiting retaliation and how to report acts of retaliation
  - 1.3.9. Determine the age of the complainant, and if the complainant is a minor, make the appropriate report of suspected abuse consistent with state law
  - 1.3.10. Evaluate other external reporting requirements under federal or state law or memoranda of understanding
  - 1.3.11. Develop, and follow, a comprehensive written checklist/form to ensure that all required actions are taken under state and federal law
  - 1.3.12. Develop checklist of factors to consider in determining whether to move forward without a complainant or whether informal resolution is appropriate and ensure sufficient documentation of the determination
  - 1.3.13. Provide a written statement of concern at the conclusion of the initial assessment to ensure that the complainant (and as appropriate, the respondent) have a clear understanding of the nature of the report and the proposed resolution path
- 1.4. Separate support/advocacy functions from investigation to avoid role confusion and ensure clear demarcation between the individuals who provide supportive measures to a complainant, respondent or other individual in need of assistance, and the investigator

- 1.5. Strengthen campus collaboration and information-sharing through a multidisciplinary team (MDT) model
  - 1.5.1. The Title IX Coordinator/DHR Administrator, in conjunction with the Chancellor's Office, should identify essential university partners to serve on the MDT and set standards for meeting goals and sharing real time information. MDT members may include representatives from Student Affairs/Student Conduct, Faculty/Academic Affairs, Human Resources, UPD, Title IX Coordinator, DHR Administrator, Clery Coordinator, and University Counsel
  - 1.5.2. The MDT should meet regularly and at a minimum, weekly, to review all new reports
  - 1.5.3. The MDT should ensure that all known and available information about the parties and the reported incident is shared with TIX/DHR to inform TIX/DHR's initial assessment and any steps it determines to take in response (including information maintained outside of Title IX/DHR's recordkeeping systems and information that may only be known to another unit or individual)
  - 1.5.4. MDT partners should ensure that Title IX has access to the Maxient records of campus partners in order to appropriately assess for risk, climate and pattern in all reports
  - 1.5.5. The Title IX Coordinator/DHR Administrator should follow a protocol for securely sharing parties' university ID numbers or names and basic information about the reported incident in advance of MDT meetings to enable all participants to query their records systems and bring forward any relevant information
  - 1.5.6. The Title IX Coordinator/DHR Administrator should ensure that the multidisciplinary team is trained to treat information confidentially, with sensitivity, and consistent with state and federal privacy laws
  - 1.5.7. The MDT should engage in consultation to inform decisions, including those about emergency removal, administrative leave, the reasonable availability of supportive measures, and questions about the scope of the university's education program or activity
  - 1.5.8. The MDT meetings should serve as natural opportunities for documenting the factors considered in reaching key decisions and documenting what information was known, when it was known, by whom it was known, and what impact it had on the Title IX Coordinator/DHR Administrator's analysis
  - 1.5.9. The MDT should facilitate the development of shared fluency and knowledge among key university partners related to the legal and regulatory requirements, policy frameworks, and considerations related to care and informed and equitable processes
- 1.6. Develop tools for consistent, informed, effective documentation and case management
  - 1.6.1. For quality control, develop a case opening and closing checklist to ensure that all relevant documents, correspondence, and information are captured and preserved electronically
  - 1.6.2. To the extent feasible, seek to maintain data in a usable and searchable electronic format for efficient decision making, analysis and review

- 1.6.3. Migrate all historical DHR reports and Title IX reports into the enterprise-level case management system, if not already included
- 1.6.4. Develop periodic reviews for quality assurance
- 1.7. Oversee investigations for quality and consistency of prompt and equitable processes
  - 1.7.1. Establish a protocol to ensure the timeliness of investigations, with routine quality control mechanisms throughout investigation process
  - 1.7.2. Develop quality control processes for monitoring active investigations for thoroughness and timeliness and ensure timely communications to parties throughout the investigative process (e.g., calendar internal 30-day, 60-day and 90-day alerts to prompt the investigator or case manager to make outreach to the parties)
  - 1.7.3. Ensure each report has sufficient review by the Title IX Coordinator/DHR Administrator and University Counsel (for legal review of sufficiency and adherence to policy)
2. Continue to evaluate barriers to reporting and engagement at the university level, with aggregation of data and advice and guidance by the Chancellor's Office
3. Review and revise tone, content, and format of reporting forms and other template communications
4. Review the current post-Title IX/DHR disciplinary processes for faculty and staff to ensure promptness, equity, and informed communication
  - 4.1. Ensure the Title IX Coordinator/DHR Administrator remains engaged in any disciplinary processes, including sanctions and appeals, until final
  - 4.2. Ensure that decisions about negotiated settlements are supported by a careful and coordinated review by all relevant campus and system level administrators
5. Develop and implement a process to routinely collect post-resolution feedback from the parties and all impacted individuals

### **C. Communications**

We offer the following recommendations to improve awareness of the Title IX/DHR Office, strengthen campus communications, and address the trust gap:

1. Ensure distribution of a clear and consistent communication plan each semester that includes, at a minimum:
  - 1.1. Dissemination of the Notice of Nondiscrimination
  - 1.2. Dissemination of the Nondiscrimination Policy
  - 1.3. Information about reporting and resources
2. Develop an intentional marketing campaign to raise awareness about the role of the Title IX/DHR program, available resources, and resolution options

- 2.1. Prioritize the messages of care, supportive measures, and resources
- 2.2. Differentiate and educate about the difference between confidential resources and reporting options
- 2.3. Partner with campus communications professionals to create and promote effective marketing materials, including through the use of professional branding that can be used across platforms (print, web, social media, imprinted on giveaway products)
3. Improve the Title IX/DHR website and other external-facing communications
  - 3.1. Review and revise web content, across all relevant webpages, for clarity, accuracy, and accessibility
  - 3.2. Ensure that web content includes: photographs and contact information for Title IX/DHR staff, notice of nondiscrimination, a link to the Nondiscrimination Policy, an overview of procedural and resolution options (with accessible graphics), how to make a report (to Title IX/DHR or UPD), on and off campus confidential resources, the difference between confidentiality and privacy, supportive measures, employee reporting responsibilities, an FAQ, prevention and education programming
  - 3.3. Continue to update the Title IX/DHR website as follows:
    - 3.3.1. Under Title IX/DHR, the [CSU Policy](#) tab under does not link to the actual policy. In this tab are the [Non-Discrimination Notice](#) on the basis of sex, and two more links. One, "Read More about [Title IX](#)" – goes to the U.S. Department of Education website, and the other, "[Violence Against Women Reauthorization Act/Campus SaVE Act](#)" – links to a White House statement from March 2022
    - 3.3.2. In the [Policies and Procedures](#) tab, under Legislation, Regulations, and Policies, the [Violence Against Women Reauthorization Act/Campus SaVE Act](#), links to a White House statement from March 2022, and the [Title IX of the Education Amendments of 1972](#) link goes to the U.S. Department of Education website
    - 3.3.3. Under the Procedures tab: [Student Complaint Procedure](#), references the old policy (CSU Executive Order 1097)
    - 3.3.4. Under the Procedures tab in Title IX: [Employee, Student Employee, and Third Party Complaint Procedure](#) references the old policy (EO 1096), as does the [Employee Complaint Procedure](#) tab in the DHR website
    - 3.3.5. The online [Report Form](#): states, "Students can contact the campus Confidential Advocate, who will keep their disclosures confidential. The Confidential Advocate can explain the complaint process, as well as your different reporting options"
    - 3.3.6. Under [Student Complaint Procedure](#), scrolling down, there is a link to [Student Complaint Timeline](#), this is a pdf document that is outdated
    - 3.3.7. [Student Affairs](#) link to the CSU Executive Orders, actually goes to the Title IX website
    - 3.3.8. [University Police Department](#): Does not have any information about how to make a report or any information about Title IX



- 3.4. Gather, evaluate, and update all existing informational materials, web resources, posters/flyers, social media information, and other public-facing communications about the Title IX/DHR program to ensure that those materials:
  - 3.4.1. Reflect the current staffing and structure of the office, the current CSU Nondiscrimination Policy and resolution processes, and current information about on- and off-campus resources including confidential resources
  - 3.4.2. Are written in clear language, accessible (from both a disability perspective and a reading comprehension perspective), and consider strategic placement of newly developed print materials in areas frequented by students, staff, and faculty
- 3.5. Use standardized email addresses and/or materials that are able to be updated quickly (e.g., use of QR codes that point to dynamic webpages that can be updated; using, for example, "TitleIX@[name of university].edu," so that print materials do not become outdated if there is a personnel change, etc.)
4. Develop an expanded annual report with meaningful information/data
5. Develop standing committee of representative student, faculty and staff ambassadors to support and facilitate institutional efforts to more effectively communicate with campus constituents
6. Identify and prioritize opportunities for in-person engagement with Title IX/DHR staff (e.g., pop-up events, tabling at an information fair, open houses in various central locations, routine scheduled short presentations to key audiences, and/or sponsored or co-sponsored events);

#### **D. Prevention, Education, Professional Development, Training and Awareness**

We offer the following recommendations to promote legal compliance with the VAWA provisions of the Clery Act and consistent attention to prevention and education programming, training, professional development and awareness:

1. Allot sufficient budget lines to ensure consistent, baseline funding for personnel, legally-required programming, and technology/learning management systems
2. Proactively coordinate with system-level subject matter experts to assist with education, training, materials and communications related to complex and difficult issues facing all CSU institutions
3. Designate one individual with specific oversight of all university prevention and education planning and programming, preferably a full-time role without other job responsibilities
  - 3.1. This coordinator should be tasked with oversight of and responsibility for all legally-required programming under Title IX, the Clery Act, and California law
4. Continue the work of the university-wide Prevention and Education Oversight Committee (The Title IX/DHR Training Coordination Committee) to coordinate and align programming across the university
  - 4.1. The Committee should include all departments who provide training, prevention and education, including, at a minimum, representatives from the Title IX/DHR program, the confidential

advocate, student affairs, student health, counseling, UPD, athletics, fraternity and sorority life, residential life, human resources and employee labor relations, academic/faculty affairs, DEI professionals, identity-based affinity centers, university subject-matter experts, and staff, faculty, and student representatives

- 4.2. The Committee should include subcommittees, as determined by the Committee. Committees may focus on the needs of various constituencies (undergraduate students, graduate students, staff, administrators, and faculty) or the types of programming (compliance, professional development, prevention and education, bystander intervention, etc.)
- 4.3. The Committee should be charged with reviewing prevention program content, evaluating proposed programming or speakers, ensuring that prevention-related communications are reaching all constituents, and developing and implementing a mechanism for assessing effectiveness including by monitoring participation levels and measuring learning outcomes
5. With assistance from the Chancellor's Office, develop a strategic plan for university programming that identifies all training requirements under federal and state law and CSU policy, all constituencies and constituent groups in need of training, and all potential university partners that can collaborate to deliver content
  - 5.1. Constituent groups subject to required training should include students (undergraduate and graduate); targeted student populations (athletes, fraternity and sorority life, residential students, residence life student staff, international students, student leaders); senior leadership; faculty (deans, department chairs, leads, lecturers); staff (managers, supervisors); and campus partners who assist in the implementation of Title IX/DHR
  - 5.2. Identify all university partners who provide programming, including affinity and identity-based centers and student affairs personnel
  - 5.3. Identify opportunities for virtual and in-person engagement
  - 5.4. Develop core principles and standards for content development
  - 5.5. Build a university calendar that includes online modules, social norm campaigns, orientation for students and employees, recurring opportunities for programming, and awareness events
6. Facilitate a consistent communication plan each semester that includes dissemination of the policy, notice of nondiscrimination, reporting options and resources
7. Ensure that programming is coordinated, communicated and tracked
8. Develop a university website dedicated to prevention and campus programming that is kept current, facilitates distribution of prevention and education materials, and incorporates the opportunity for feedback and recommendations
9. Identify social media platforms and other vehicles for distributing programming information on a regular basis
10. In conjunction with the Chancellor's Office, expand professional development and training for faculty and staff, including senior leadership, deans, department chairs, managers and leads on Title IX and DHR; respectful and inclusive environments; conflict resolution; bystander intervention strategies;

effective leadership and supervision; and, reporting responsibilities under Title IX, the Clery Act, and CANRA

- 10.1. Ensure the training includes information about prohibited consensual relationships given the significant overlap of prohibited consensual relationships with Title IX, DHR and *other conduct of concern*
11. Create routine training, education, and professional development opportunities to cultivate competencies in navigating difficult conversations, bridging differences, and modeling respect and civility
12. Evaluate the potential opportunities for curricular or course-based programming credential-based options
13. Incorporate information about the Nondiscrimination Policy, reporting options, and confidential resources in syllabi statements
14. Commit to providing programming regarding bystander engagement
15. Participate in national conferences, listservs, networking events and other opportunities to coordinate with other professionals dedicated to prevention
16. Engage students in the development and delivery of programming through peer educator/peer advocate programs
17. Identify student leaders who can serve as ambassadors/promoters of this work
18. Develop consistent on-campus opportunities to be visible and present in the community

#### **E. Responding to Other Conduct of Concern**

We offer the following recommendations to develop policy, infrastructure, systems, and training to address *other conduct of concern*:

1. In conjunction with the Chancellor's Office and CSU's Office of General Counsel, develop a written policy, document, or statement by senior leadership to establish expectations, guidelines, and/or definitions of conduct
  - 1.1. The written framework should address unprofessional conduct, abusive conduct, microaggressions, acts of intolerance, and other disruptive behavior in the living, learning and working environment
  - 1.2. The written framework must also address intersections with free speech and academic freedom, including the explicit recognition that the CSU cannot discipline for protected speech
2. Reinforce CSU values and expectations about respect, tolerance, and professionalism through programming and opportunities for in-person engagement
3. Strengthen and expand available competencies regarding conflict resolution, navigating interpersonal conflict, restorative justice, and other forms of remedial responses

- 3.1. Strengthen traditional employee relations functions within human resources to assist in responding to concerns involving faculty and staff
- 3.2. Strengthen competencies of managers, supervisors, deans and department chairs by providing expanded training and professional development to meet the needs of assigned roles
- 3.3. Consider the need for additional personnel, such as an Ombudsperson or a conflict resolution professional, including those with expertise in restorative justice and mediation
- 3.4. Develop communications competencies to embrace the tension of difficult issues including the intersections of speech in the contexts of politically and socially-charged events and issues
- 3.5. Communicate the new and available conflict resolution suite of resources through web content, annual training, and awareness campaigns
- 3.6. Invest in education and training about conflict resolution
4. Create a centralized reporting mechanism that includes the option for online and anonymous reporting
  - 4.1. Ensure that the landing page for the anonymous reporting option includes appropriate caveats about the university's limited ability to respond to an anonymous report
5. Build on the efforts of the newly implemented protocol established by the President for documenting and referring the *other conduct of concern*, by building a triage model/review process to ensure that all reports are assessed by title IX and DHR professionals (and a subset of the Title IX/DHR MDT) and evaluate potential avenues for resolution that include the following:
  - 5.1. Identify potential policy violation and investigative response, if any
  - 5.2. Refer to the appropriate administrator/department to coordinate/lead the response
  - 5.3. Identify reasonably available individual supportive measures, if any, and
  - 5.4. Identify appropriate community remedies, if any
6. The reporting and resolution processes must ensure sufficient documentation system to track responsiveness, patterns and trends
7. This information should be tracked and analyzed on at least an annual basis to inform the need for remedial actions regarding culture and climate, targeted prevention and education programming, and ongoing issues of concern

**Appendix I**  
**Metrics: Campus Demographics and Population<sup>39</sup>**

The below chart reflects key metrics and demographic information for California State University, East Bay.

California State University, East Bay			
Location Information			
<b>Location:</b> Hayward, CA (pop. 156,754) <sup>40</sup>	<b>County:</b> Alameda County (pop. 1,628,997) <sup>41</sup>	<b>Locale Classification:</b> Large Suburb <sup>42</sup>	
University Information			
<b>President:</b> Cathy Sandeen, Ph.D., MBA (October 2020-present)			
<b>Designations:</b> Hispanic Serving Institution (HSI) <sup>43</sup> Asian American and Native American Pacific Islander-Serving Institution (AANAPISI) <sup>44</sup>			
Students – Enrollment Data <sup>45</sup>			
Total Number of Students		13,693	
		Self-Supported	
Undergraduates	9862	Undergraduates	865
Grad & Post Bac Students	2218	Grad & Post Bac Students	748
Student Ethnicity <sup>46</sup>			
Overall (includes State- and Self-Supported)			
Hispanic / Latino		36%	
Asian		22%	
White		16%	
Black / African American		8%	
International Student		7%	
Two or More Races		5%	
Race and Ethnicity Unknown		4%	
Native Hawaiian / Other Pacific Islander		1%	

<sup>39</sup> Unless otherwise noted, Cozen O'Connor obtained data concerning East Bay demographics, populations, Title IX and DHR staffing, operations and caseload from California State University and East Bay sources. This report will be updated to reflect material inaccuracies brought to our attention on or before September 15, 2023.

<sup>40</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/haywardcitycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>41</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/alamedacountycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>42</sup> Defined as a territory outside a Principal City and inside an Urbanized Area with population of 250,000 or more. See National Center for Education Statistics, <https://nces.ed.gov/programs/edge/Geographic/LocaleBoundaries> and <https://nces.ed.gov/surveys/annualreports/topical-studies/locale/definitions>.

<sup>43</sup> HSIs are defined under the Higher Education Act as colleges or universities where at least 25% of the undergraduate, full-time enrollment is Hispanic; and at least half of the university's degree-seeking students must be low-income. See <https://www2.ed.gov/about/offices/list/ope/itudes/eligibility.html>

<sup>44</sup> AANAPISIs are defined under the Higher Education Act as colleges or universities with an undergraduate enrollment that is at least 10% Asian American and Native American Pacific Islander. Additionally, at least half of the University's degree-seeking students must be low-income. See <https://www2.ed.gov/programs/aanapi/eligibility.html>

<sup>45</sup> California State University Enrollment Data, Fall 2022, East Bay: [https://tableau.calstate.edu/views/SelfEnrollmentDashboard/EnrollmentSummary?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome=no](https://tableau.calstate.edu/views/SelfEnrollmentDashboard/EnrollmentSummary?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome=no) For purposes of this table, "state-supported" refers to students for whom the State of California underwrites some or all of their educational expenses and "self-supported" refers to students whose educational expenses are not underwritten by the state. Across the California State University system, with some exceptions, self-supported degree seeking students are generally those enrolled in programs administered by professional and continuing education programs.

<sup>46</sup> *Id.* This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

American Indian / Alaska Native		<1%	
<b>State-Supported (12,080 students)</b>		<b>Self-Supported (1613 students)</b>	
Hispanic / Latino	37%	Hispanic / Latino	28%
Asian	22%	White	27%
White	15%	Asian	24%
Black / African American	9%	Black / African American	8%
International Student	8%	Race and Ethnicity Unknown	6%
Two or More Races	5%	Two or More Races	5%
Race and Ethnicity Unknown	4%	International Student	2%
Native Hawaiian / Other Pacific Islander	<1%	Native Hawaiian / Other Pacific Islander	<1%
American Indian / Alaska Native	<1%	American Indian / Alaska Native	<1%
<b>Other Student Demographics<sup>47</sup></b>			
<b>Overall (includes State- and Self-Supported)</b>			
First in Family to Attend College		31%	
% students who are traditionally underrepresented <sup>48</sup>		45%	
% of undergrads who were Pell Grant recipients <sup>49</sup>		45%	
% of students who live on campus <sup>50</sup>		6%	
% undergrads who are in a fraternity or sorority <sup>51</sup>		6%	
4-year graduation rate for first-time FT freshmen <sup>52</sup>		21.6%	
<b>State-Supported (12,080 students)</b>		<b>Self-Supported (1613 students)</b>	
Average Age	26	Average Age	33
Sex <sup>53</sup>	59% F; 41% M	Sex <sup>54</sup>	65%F; 35% M
First in Family to Attend College	31%	First in Family to Attend College	31%
% traditionally underrepresented <sup>55</sup>	46%	% traditionally underrepresented <sup>56</sup>	36%
<b>Instructional Faculty<sup>57</sup></b>			
Total # of faculty		811.00	
Tenure-track		43.6%	
Lecturer		56.4%	
% full-time <sup>58</sup>		43.32%	
% part-time		56.68%	

<sup>47</sup> *Id.*, except where noted otherwise. This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

<sup>48</sup> For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

<sup>49</sup> Pell Grants are federal grants that are usually awarded only to undergraduate students who display exceptional financial need. See U.S. Department of Education, Federal Student Aid, <https://studentaid.gov/understand-aid/types/grants/pell>. This data is for 2021 as 2022 data is not yet available.

<sup>50</sup> California State University, 2022 Systemwide Housing Plan, Figure 7, p. 20: <https://www.calstate.edu/impact-of-the-csu/government/Advocacy-and-State-Relations/legislative-reports1/Legislative-Report-CSU-Systemwide-Housing-Plan.pdf>

<sup>51</sup> This figure was calculated utilizing data obtained from <https://sfsu.campuslabs.com/engage/organizations> and =no [https://tableau.calstate.edu/views/SelfEnrollmentDashboard/EnrollmentSummary?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome](https://tableau.calstate.edu/views/SelfEnrollmentDashboard/EnrollmentSummary?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome)

<sup>52</sup> California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with East Bay selected in drop-down menu. See <https://www.calstate.edu/data-center/institutional-research-analyses/Pages/graduation-and-success.aspx>. This data reflects the four-year graduation rate for first-time full-time freshmen entering CSUEB during the Fall 2018 (most recent complete 4-year term available).

<sup>53</sup> Data does not capture number of students who do not identify on the sex/gender binary.

<sup>54</sup> *Id.*

<sup>55</sup> For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

<sup>56</sup> *Id.*

<sup>57</sup> California State University, CSU Faculty, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-faculty>, except where noted otherwise.

<sup>58</sup> California State University, CSU Workforce, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-workforce/Pages/default.aspx> See “Headcount/FTE by Campus” tab.

Leadership body	Academic Senate <sup>59</sup>
<b>Staff<sup>60</sup></b>	
Total # of staff	809
% full-time	95.43%
% part-time	4.57%
<b>Collective Bargaining Units</b>	
Unit 1	Cal. Fed. of American Physicians and Dentists (UAPD)
Units 2, 5, 7, 9	California State University Employees' Union (CSUEU)
Unit 3	California Faculty Association (CFA)
Unit 4	Academic Professionals of California (APC)
Unit 6	Teamsters, Local 2010 – Skilled Trades
Unit 8	Statewide University Police Association (SUPA)
Unit 11	Academic Student Employees (UAW)
<b>Athletics<sup>61</sup></b>	
NCAA Division	II
NCAA Conference	CCAA <sup>62</sup>
Number of sponsored sports for '22-'23 academic year	15
Number of student athletes <sup>63</sup>	234

<sup>59</sup> East Bay Academic Senate. See <https://www.csueastbay.edu/senate/>

<sup>60</sup> California State University, CSU Workforce, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-workforce/Pages/default.aspx> See "Headcount/FTE by Campus" tab.

<sup>61</sup> NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=98>, except where noted otherwise.

<sup>62</sup> All sports are in the California Collegiate Athletic Association except Women's Swimming and Diving, which is Independent and Women's Water Polo which is part of the Western Water Polo Association Women.

<sup>63</sup> See U.S. Department of Education, Equity in Athletics Data Analysis, at <https://ope.ed.gov/athletics/#/>, data for California State University East Bay. Number of student athletes equals the sum of the Unduplicated Count of Participants for Men's Teams plus the Unduplicated Count of Participants for Women's Teams.

## Appendix II 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, 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.



We received feedback from students, faculty, staff, and administrators in the form of survey responses. In total, we received 326<sup>64</sup> responses to the survey from East students, faculty, staff, and administrators as follows:

Constituency	Number of Responses
Undergraduate Student	130
Graduate Student	31
Staff	78
Administrator or Manager	17
Faculty	79
Other	9

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:

- Disability inclusion and accommodation. Survey respondents stated throughout the survey that the university was not as inclusive and accommodating for individuals with disabilities as it should be.
- Disrespect by students and tenured faculty. Faculty respondents noted throughout the survey that student conduct was inappropriate and disrespectful, including racism and microaggressions toward faculty. Untenured faculty also noted that tenured faculty treated them with disrespect.
- School shooting concerns. Survey respondents stated that they were concerned about school shootings in light of attacks at other institutions.
- Consensual relationships policy. Survey respondents stated that the university should have a formal policy with respect to faculty dating students, including a strict prohibition on these relationships.

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<sup>64</sup>Some survey respondents identified as belonging to multiple constituencies; hence, the number listed here is smaller than the sum total in the chart below.

- Changes to training and website to make more easily accessed. Survey respondents stated that they were unaware of many campus resources, and that it was challenging to navigate the campus website to find relevant information. They also stated that the trainings were ineffective and should be conducted in person.
- Conflict of interest between protecting institution and stakeholders. Survey respondents stated that they believed the institution would protect itself at the expense of its stakeholders, and that the Title IX and DHR Office existed to protect the university.
- Faculty protected by tenure and unions. Some survey respondents noted that tenured faculty facing accusations of sexual harassment or misconduct were permitted to retire, or were protected by the union after termination.
- Follow up for complainants and supportive measures regardless of formal complaint. Perhaps as a result of understaffing and limited resources, some survey respondents stated that they were not contacted after deciding not to file a formal complaint, and that further supportive measures may have been useful.
- Increased visibility for DHR needed. Survey respondents stated that they were not aware of DHR or its purpose.

### **Appendix III Title IX Metrics (Title IX Annual Reports)**

#### **I. Approach to Metrics: Review of Annual Title IX Reports**

As part of our review of the Title IX program at East Bay, we reviewed the university's annual Title IX reports for years 2018-2019 through 2021-2022. These annual reports are posted online on East Bay's Title IX/DHR Office website.<sup>65</sup> The annual reports provide data regarding the reports of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, Stalking, and – in 2021-2022, Sexual Exploitation and Sexual Harassment – made to the Title IX/DHR Office each year. The annual reports reflect the number of reports received, disaggregated by the type of conduct and whether the respondent was a student, employee, or third-party, unknown, or unidentified. Beginning in 2019-2020, the annual reports also reflect procedural outcomes, including:

- the number of reports that resulted in investigations with findings of a policy violation or no policy violation
- informal resolutions reached before or during an investigation
- requests from the complainant for resources supportive measures only
- no response from the complainant to the Title IX Office's outreach and insufficient information to move forward
- insufficient information to move forward with an investigation but sufficient information to take other remedial action
- an inability to send outreach to the complainant because the Title IX Office did not know their identity, and
- other types of outcomes as specified by the campus.

The annual reports provide information about sanctions imposed upon findings of responsibility and as a result of informal resolution. Finally, the annual reports also provide information about the number of open reported matters as of the beginning and end of the reporting period.

#### **II. Caveats Regarding Interpretation of Data**

In evaluating this data, we note that the CSU system currently lacks sufficient tools, processes, and practices to support consistent and reliable data-gathering across campuses. As currently structured, the data-gathering system has significant challenges: it is reliant on self-reporting by Title IX staff at the campus level based on the nature and manner in which they keep documentation; across the system, the

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<sup>65</sup> <https://www.csueastbay.edu/administration/title-ix/policies-procedures.html> (last visited May 10, 2023).

campuses do not use consistent documentation and recordkeeping systems and practices to maintain their campus's data; the structure and questions posed by the Chancellor's Office to request data for the annual Title IX report have changed over time and not all campuses use the same report structure; some data requests and questions may be unclear and therefore subject to interpretation; and the annual Title IX reports do not capture foundational data that would enable an informed comparison between institutions, such as number of students and employees and number of residential versus commuter students.

Importantly, the annual Title IX reports do not reflect the full breadth of work being performed by Title IX Offices, which is most often concentrated in campus outreach, prevention and education programming and training; responding to reports, conducting intake meetings, overseeing supportive measures, and conducting initial assessments; overseeing informal resolutions; coordinating with campus partners; responding to information requests in a variety of capacities; ensuring accurate and contemporaneous documentation; and strategic leadership on Title IX issues more broadly. The data currently requested also does not capture key metrics such as the numbers and types of reports of Sex- or Gender-based Discrimination, Retaliation, and Discrimination or Harassment on the basis of other protected statuses covered by the Nondiscrimination Policy. In addition, as noted above, until the 2021-2022 academic year, the annual Title IX reports did not include data regarding reports of Sexual Exploitation or Sexual Harassment. For the above reasons, under the current process for systemwide data-gathering, it is difficult to draw precise conclusions about campus Title IX functions or make meaningful comparisons with other CSU institutions from the data alone. That being said, we have confidence that the data, while imperfect, provides sufficient reliability to extrapolate key themes and observations.

In presenting the below data, we note that some campuses identified challenges with accuracy or completeness in their data. We have attempted to reconcile that data where possible, recognizing that some CSU institutions have provided data prepared by individuals who are no longer employed by the institution. Before publishing this report, we sent outreach to all Title IX Coordinators to request that they verify the accuracy of their 2021-2022 annual Title IX report. On April 25, 2023, East Bay emailed us to identify and correct miscalculations in their previous data. The below charts reflect their corrections.

Finally, we recognize the significant impact of the global pandemic on colleges and universities across the country, including East Bay. While we cannot know the precise impact that the pandemic had on incidence rates, awareness of campus resources, barriers to reporting and other relevant factors, we are careful not

to draw firm conclusions about trends over the past three years due to the obvious but unquantifiable differences in pre- versus post-pandemic conditions.

### III. Historical Data: Annual Title IX Reports (2018-2019 through 2021-2022)

The below charts reflect the number of reports of Sexual Misconduct/Sexual Assault, Dating/Domestic Violence, and Stalking that the Title IX Office received each per year; the procedural outcomes of those reports; and the number of reports involving student Respondents, employee Respondents, third-party Respondents, and unknown or unidentified Respondents.

#### A. Types of Reported Conduct<sup>66</sup>

	2018-2019	2019-2020	2020-2021	2021-2022
Reports of Sexual Misconduct/Sexual Assault	15	19	28	14
Reports of Dating/Domestic Violence	12	5	7	11
Reports of Stalking	16	12	12	13
Sexual Exploitation*	-	-	-	0
Sexual Harassment*	-	-	-	13
<b>Total # of Reports in Above Categories</b>	<b>43</b>	<b>36</b>	<b>47</b>	<b>51</b>
<b>* This data was not requested by the Chancellor's Office prior to the 2021-2022 academic year.</b>				

#### B. Respondents' Roles<sup>67</sup>

The below data, prior to the 2021-2022 Academic Year, relate to the numbers of reports of Sexual Misconduct/Sexual Assault, Dating/Domestic Violence, and Stalking only. Sexual Exploitation and Sexual Harassment Claims are included in 2021-2022.

	2018-2019	2019-2020	2020-2021	2021-2022
Reports in which the Respondent is a student	Data not available	17	20	25
Reports in which the Respondent is an employee	Data not available	0	3	4
Reports in which the Respondent is a third-party		2	1	3
Reports in which the Respondent is unknown	12	15	23	19
Reports in which the Respondent is unidentified				0
<b>Total # of Reports in Above Categories</b>	<b>43</b>	<b>34<sup>68</sup></b>	<b>47</b>	<b>51</b>

<sup>66</sup> This data does not include reports of incidents that fail to meet the threshold of Title IX misconduct.

<sup>67</sup> Respondent Role totals may differ from Reported Conduct totals due to multiple allegations for one Respondent.

<sup>68</sup> We note that the number of respondents listed here does not match the total number of complaints listed above. While there is no concrete explanation for this in the annual report, this may occur where, for example, multiple complaints are alleged against a single respondent.

**C. Case Outcomes<sup>69</sup>**

The below data reflect the collective outcomes of reports to the Title IX/DHR Office.<sup>70</sup>

	2018-2019	2019-2020	2020-2021	2021-2022 <sup>71</sup>
Reports in which the Complainant did not respond to outreach and there was insufficient information to move forward	Data not available	19	15	10
Reports in which the Complainant's identity was unknown to the Title IX Office		-	-	1
Reports in which the Complainant requested supportive measures or resources only		-	18	24
Reports that resulted in other outcomes (except formal investigation)		14	10	18
Reports that resulted in a formal investigation*	0	3	0	3
* We learned through this review that this category is not an accurate indicator of the total number of investigations, in part because of how the question was narrowly framed by the Chancellor's Office. This number does not capture investigations that were open at the end of the reporting period. It also doesn't capture investigations that were substantially completed, but discontinued at the request of the complainant, because the case was otherwise resolved, or because the matter was dismissed based on mandatory/discretionary grounds under Title IX and university policy.				

<sup>69</sup> Case Outcome totals may differ from Reported Conduct totals depending on exclusion of pending cases at the time of the annual report and inclusion of resolved open cases from previous years.

<sup>70</sup> As a reminder, in 2021-2022, the data included Sexual Exploitation and Sexual Harassment, which were not included in earlier years. Because of the manner in which data was gathered by the Chancellor's Office, it is unclear how the addition of these two categories of conduct impacted the number of outcomes.

<sup>71</sup> We note that the total number of resolutions is greater than the number of total reports above. While the cause for this discrepancy is not explained in the annual report, this may reflect that a number of resolutions occurred during this year from reports filed during the previous year.