

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

California State University, Fresno

The Institutional Response Group

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I. Introduction

In March 2022, the Board of Trustees of the California State University (CSU), through the Office of the Chancellor, engaged Cozen O'Connor to conduct a systemwide assessment of the CSU's implementation of its programs to prevent and address discrimination, harassment, and retaliation (DHR) based on protected statuses, including sex and gender (under Title IX).¹ 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

¹ 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).

investigations, hearings, sanctioning/discipline, grievance, and appeal processes; investigative and hearing protocols; inter-departmental campus collaboration, information sharing, and coordination in individual cases and strategic initiatives; document and data management protocols; timeliness of case resolution, and factors impacting timely resolution; informal 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, Fresno (Fresno State Report). The Fresno State review was led by Gina Maisto Smith and Leslie Gomez. The Fresno State 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 Fresno State 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.

Fresno State is located in Fresno, California. It has a student population of approximately 24,000, 4% of whom live on campus, and a workforce of approximately 2,430 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 campus administrators, students, faculty, and staff, on each campus.

With respect to Fresno State, Cozen O'Connor conducted interviews with more than 20 administrators and stakeholders, primarily concentrated between July 2022 and September 2022, although we conducted follow up interviews through as late as February 2023. These meetings included interviews with the following individuals and departments (identified by role):

- University President
- Provost and Vice President for Academic Affairs
- Vice President of Administration and CFO
- Interim VP for Student Affairs and Dean of Students
- Fresno State University Police Department
 - Chief of Police
 - Lieutenant
- University Counsel
- Director of Title IX and Clery Compliance (Title IX Coordinator)
- Associate Vice President for Human Resources and DHR Administrator
- Wellness Services
 - Associate Vice President for Student Health, Counseling and Wellness (also serving as Interim Associate Vice President for Student Success)
 - Director of Wellness Services
 - Director of Counseling and Psychological Services (co-chair of CARE Team)
- Health Promotion and Education
- CARE Team members
- Director of Housing and Deputy Title IX Coordinator for Housing and Athletics
- LGBTQ/Gender/Men's Success and Initiatives staff
- Associate Vice President for Faculty Affairs
- Survivor Advocate
- Cross-Cultural and Gender Center, Interim Lead Coordinator
- Director of Student Conduct
- Athletics
 - Athletic Director
 - Senior Associate Athletic Director

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), as well as individual meetings via Zoom.

Cozen O'Connor also provided numerous opportunities for engagement with students, staff, and faculty. We met with various groups including the Senate Executive Committee (7 attendees), the Joint Labor

Council (7 attendees), the Staff Assembly Executive Committee (4 attendees), and Associated Students, Inc. (6 attendees).

Finally, we had extensive with Fresno State's [Title IX Task Force](#) in the summer and fall of 2023. The Task Force was charged by President Jiménez-Sandoval in May 2022 to ensure accountability and transparency in Fresno State's Title IX operations. Cozen O'Connor participated actively in the Task Force meetings. Through the Task Force, we had the opportunity to engage directly with a wide range of students, staff, administrators and faculty, both the members of the Task Force, and those guests who were invited to Task Force listening sessions to share their experiences and provide feedback. The guests included:

- Academic and Student Affairs Leadership Teams
- Asian Faculty and Staff Association (AFSA)
- Auxiliary Services
- Black Faculty and Staff Association (BFSA)
- Council of Chairs
- Dream Success Center
- LGBTQIA+ community
- Services for Students with Disabilities (SSD)
- Student Conduct,
- Women of Color Coalition

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 1,055 responses to the survey from Fresno State students, faculty, staff, and administrators. A summary of the survey response rate and data is included in Appendix II.

III. Context

Fresno State has experienced one of the highest profile and most incendiary issues within the CSU, which have consequently had a significant impact on trust, both at Fresno State and across the system. The issues involved a series of reports of sexual harassment involving the former university Vice President for Student Affairs between July 2014 and November 2019. In February 2022, national media accounts highlighted the matter, identifying a number of institutional flaws in the response, largely tied to the actions of the former CSU Chancellor, who had also served as Fresno State's former President.

The fallout related to this matter reverberated from the Chancellor's Office, through all Fresno State constituents, to alumni and the public at large. As a result, Fresno State has wrestled with a severe trust deficit – a lack of trust in the CSU, and in Fresno's leaders, staff, and processes. The Chancellor's Office engaged an external professional to investigate the sufficiency of the university's response to the reports and released a public report of the findings in September 2022.² The [Wegner Report](#), provided a sobering assessment and found issues related to documentation and recordkeeping practices, performance evaluation processes, and frameworks for accountability. We also observed concerns about conflicts of interest. The report also highlighted the burden that is often placed on complainants within hierarchical systems. Here, multiple complainants were unwilling to participate in formal university processes because of fear of retaliation. Following an ultimate finding of responsibility, the disciplinary response by the then-President (who subsequently became Chancellor of the CSU system) reflected bias and poor judgement, including his role in sanctioning and the Vice President's separation from the CSU, a letter of recommendation written by the then-President, and the exercise of retreat rights by the former Chancellor.

In the spring of 2022, President Jiménez-Sandoval established a multidisciplinary Title IX Task Force that engaged in a comprehensive review of Fresno State's Title IX program. President Jiménez-Sandoval vowed that Fresno State would be a leader and model for preventing and responding to Title IX and DHR matters. The Title IX Task Force, which is comprised of members representing faculty, staff, students, and the larger community worked through the summer and fall of 2022. Importantly, Cozen O'Connor worked closely with the Task Force. As a result we had the opportunity to have significant and sustained access to a variety of multi-disciplinary views unabashedly shared by the Task Force students, faculty, staff, and community members. The candor and rigor of the regularly scheduled Task Force meetings informed our findings and observations and represented the best of Fresno State in embracing the tension of this difficult time. Likewise, we shared our recommendations with the Task Force in later summer/early fall 2022, which led to alignment between Fresno State's internal community perspective and our external, national view. Despite the very public and difficult weight that angered, hurt, and disillusioned Fresno State constituents, the students, faculty, and staff with whom we interacted demonstrated a clear eyed resolve worthy of the rich history and pride that we observed in our extensive work with Fresno State.

² See *Summary Investigation Report California State University-Fresno* (September 29, 2022), available at <https://www.calstate.edu/csu-system/news/Documents/CSU%20Report%20%289-29-22%29.pdf>.

In March 2023, President Jiménez-Sandoval and the Task Force presented their findings to the community in two open Town Hall sessions. Cozen O'Connor also participated in the Town Halls. The university has continued to take steps to strengthen its Title IX and DHR programs, committing to combining the two programs into one centralized office; moving the Title IX Office to a more visible, accessible location in the Student Union (already completed); hiring a training and outreach specialist; hiring a conflict resolution/ombuds/employee relations specialist; and, conducting annual assessments of the Title IX/DHR programs.

IV. Summary of Findings and Recommendations

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

Address Trust Gap through Continued Community Engagement, Collaboration, and Effective Communication of Ongoing Efforts to Address Title IX and DHR at Fresno State:

As described above Fresno State has experienced among the most high profile and incendiary Title IX issues plaguing the CSU. The impacts on the Fresno State community are compounded by a series of high-profile Title IX issues at other universities within the CSU system. Addressing the resulting trust gap is the highest priority. Taking an introspective look through the Title IX Task Force and sharing the [Title IX Task Force Report](#) on its accompanying [website](#) is a significant step. We recommend the university maintain the zeal of the Title IX Task Force commitment, maintain the Task Force website, and consistently communicate updates to demonstrate a cadence worthy of community trust. Changes must be visible, tethered to the needs of the community, and sustained over time. We recommend routine updates to the Task Force proposed timeline/project plan with a tracker to demonstrate the credibility of this effort. While Fresno State's Title IX and DHR professionals have training, experience, and a commitment to Fresno State's institutional mission, we observed a disconnect between their efforts and how those efforts are received by campus constituents. This in part, is due to a historical lack of resources that limits each office's capacity. As described above, campus perceptions of these functions are marred by recent high profile events. We also recommend taking steps to increase the visibility of these functions through resourcing concrete actions and consistent communications designed to elevate the vital resources, support, and available

options. Essential to this effort is a revamped website and an awareness campaign that clearly communicates the Title IX and DHR purpose and function. Finally, we recommend routine collaboration with multi-disciplinary partners as well as representative students, faculty, and staff ambassadors to enhance in person engagement with the university community. These efforts are essential to shifting perceptions and rebuilding trust.

Combine Title IX and DHR Programs: Fresno State is one of four universities in the CSU system with separate Title IX and DHR offices. The Title IX Office is a standalone office responsible for all Title IX and Clery functions. The DHR office is a standalone office and a unit of Human Resources. Until this year, when the university hired a Deputy Title IX Coordinator and a Deputy DHR Administrator, both offices were an office of one. Both offices remain understaffed, under resourced, and report to the Vice President for Administration and Chief Financial Officer. We recommend combining the Title IX and DHR Offices into one centralized office that consolidates and streamlines the university's reporting, resources, and response functions for all conduct implicated under the CSU's Nondiscrimination Policy. Significant investment in personnel is necessary to support this combined office. This combination of Title IX and DHR functions will drive collaboration, resource-sharing, and consistency in Fresno State's responses to all forms of prohibited discrimination and harassment, and will better align resources, policy, and practice.

Infrastructure and Function of Title IX and DHR: Once the Title IX and DHR offices are consolidated, we recommend an comprehensive mapping of all functions and a revamping of internal protocols for consistency of intake, support, investigations and alternative resolution options. The protocols must be accompanied by standards for documentation in an enterprise level shared system that allows for real time access to reliable data. We observed collaborative working relationships between departments, and campus partners reported a very good working relationship with the Title IX Coordinator and DHR Administrator. Further, we recommend building on these relationships and the CARE Team model to develop a multi-disciplinary assessment team to review all Title IX/DHR matters in a coordinated manner. This multi-disciplinary team would leverage cross campus collaboration to support informed judgments. These practices will elevate the care elements of compliance in response to reports, and should

be augmented by expanding resources for complainants, respondents, witnesses, and third party reporters (including access to confidential support at intake of reports).

Prevention and Education: At Fresno State, there is a dearth of prevention and education programming. Efforts are *ad hoc* and there is little required programming beyond the online modules for staff, faculty, and students. Further the Confidential Advocate, who assists in the provision of prevention and awareness programming, has not had sufficient resources to do both direct advocacy, and prevention and education programming. As a consequence, prevention and education has not been provided in a manner that effectively delivered necessary content or reached required audiences. Students, faculty, and staff alike shared that the online modules are ineffective. We recommend that Fresno State dedicate resources to build a formalized prevention and education program, hire a dedicated prevention and education coordinator and form a university Prevention and Education Oversight Committee, to address all forms of discrimination and harassment, including sexual and gender-based harassment and violence. We recommend that the prevention and education coordinator work with Title IX/DHR personnel at the Chancellor's Office and University Counsel, to map all applicable federal, state or local requirements related to prevention and education programming, including the topics to be covered, the audiences to receive training, the frequency and timing of the training, and the modality. We encourage the Prevention and Education Oversight Committee to consider curricular or credential-based options, and how to incentivize participation and engagement for all members of the campus community. After dedicated resources are in place, we recommend that the Prevention and Education Oversight Committee and the prevention and education coordinator focus on developing programming based on case data and analysis that serves the unique needs of Fresno State's community and evidence-based effective prevention work.

Other Conduct of Concern:³ Like all other CSU universities, Fresno State grapples with conduct issues that do not rise to the level of a policy violation, but nonetheless are

³ 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:

disruptive to the living, learning, and working environment of the university community. Fresno State – and the system – have no consistent or formalized mechanism for navigating these 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 Fresno State 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.

V. Title IX and DHR Offices

The Title IX and DHR functions at Fresno State are separate, with the Title IX Office operating as a standalone office, and the DHR Office operating as a unit of Human Resources. Both offices report to the Vice President for Administration and Chief Financial Officer. Until recently both offices were essentially an “office of one.” In March 2022, President Jiménez-Sandoval committed to hiring additional staff, including a second Survivor Advocate, a Deputy Title IX Coordinator in charge of investigations, and a Deputy DHR Administrator focused on DHR matters. As noted below, each of these positions has since been filled.

We recommend combining the Title IX and DHR Offices into one centralized office that consolidates and streamlines the university’s reporting, resources, and response functions for all conduct implicated under the Nondiscrimination Policy. We recommend that this combined office continue to report to the Vice President for Administration and Chief Financial Officer, who has appropriate subject matter expertise

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- 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.

and is positioned organizationally with the ability to exercise effective oversight for both functions. As noted above, the university has committed to and moved forward with this consolidation.

A. Title IX Office Infrastructure

Fresno State's [Title IX office](#) is currently located in the University Student Union, a recent move to make the office more accessible. The Office is led by the Director of Title IX and Clery Compliance, who, as the title implies, serves as the university's Title IX Coordinator and Clery Director. In this role, she is responsible for administering the University's Title IX and Clery programs.

Fresno State's Title IX Office reviews and investigates all complaints involving Title IX-related allegations pursuant to the policies and procedures set forth in the Nondiscrimination Policy. In addition to responding to reports, the Title IX Office is tasked with providing training as required by CSU policy to students, faculty, and staff about the Nondiscrimination Policy and reporting requirements; overseeing prevention and awareness education programming; and providing supportive measures and care to individuals navigating the Title IX process.

Until recently, the Title IX Office was effectively an "office of one" that consisted of the Title IX Coordinator, who has served in that role since 2018. The Title IX Coordinator previously served as the Director of Student Conduct from 2015 to 2018. She currently serves as the co-chair of the CARE Team.

The Title IX Office now has 3.25 employees: the Title IX Coordinator/Clery Director, a Deputy Title IX Coordinator, and a confidential analyst (administrative support). In addition, the Director of Housing serves as the Deputy Title IX Coordinator; she is counted as a .25 FTE for the purposes of Title IX. The Deputy Title IX Coordinator for Athletics, who previously served as the interim Title IX Coordinator, serves as the liaison with the Athletics Department given her longstanding relationships with the department. She also handles conduct matters within housing, including Title IX matters.

Although it is in the process of growing and evolving, the Title IX function is still relatively immature and faces significant staffing/resourcing challenges, even taking into account the recent and planned hires. A fully resourced office would include a Title IX Coordinator, a prevention and education coordinator, a support and intake coordinator, a full-time administrative manager, and sufficient investigative capacity. Depending on the volume of reports, investigative capacity may be filled with one to two internal investigators, the use of external investigators, or investigators through the recommended CSU Center

for Investigations and Resolutions. The addition of a support and intake coordinator would allow the Title IX 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.

During our campus visit, we learned from university administrators that understaffing of the Title IX Office was a major concern, with many individuals commenting that the Title IX Coordinator was being stretched too thin. This concern is exacerbated by the fact that the Title IX Coordinator also serves in the role of Clery Director, which itself should be a full-time position for a university of Fresno State's size. With the time commitments required for both roles, serving in these multiple capacities precludes the Title IX Coordinator from being able to be truly effective in either role, especially where, as here, the Title IX Office is not otherwise fully resourced. Collectively, these staffing and resourcing challenges result in downstream impacts in terms of the Title IX Office's ability to perform its core functions in a timely and efficient manner.

In terms of documentation and recordkeeping, the Title IX Office utilizes Maxient as its case management system to track and document its work.

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. DHR Office Infrastructure

Fresno State's [DHR Office](#) is housed within Human Resources and is located in the Joyal Administration Building. The Office is led by the Associate Vice President for Human Resources, who also serves as the DHR Administrator. In this role, the DHR Administrator is responsible for administering the University's DHR program, including reviewing and investigating all complaints involving DHR-related allegations pursuant to the Nondiscrimination Policy. The DHR Administrator reports directly to the Vice President for Administration and Chief Financial Officer.

Until recently, the DHR Office was also effectively an “office of one” under the DHR Administrator, who has served as the Associate Vice President for Human Resources since 2016. In March 2022, President Jiménez-Sandoval committed to hiring a Deputy DHR Administrator. This role was filled in December 2022. The DHR function now consists of these two employees. However, the DHR Administrator must divide her responsibilities between her two roles, so DHR is not a true 2 FTE.

As with the concern expressed with respect to the bandwidth of the Title IX Office and Title IX Coordinator, administrators reported that the DHR Administrator has too broad a portfolio in that she also serves as the Associate Vice President for Human Resources. In that role, she oversees various HR functions in addition to DHR; these functions include Employee & Labor Relations, Benefits, Compliance & Regulatory Programs, HRIS Operations/Classification and Compensation, Payroll Services, Workers’ Compensation, and Organizational Excellence. With the time commitments required for these dual roles, the DHR Administrator (like the Title IX Coordinator) cannot be truly effective in either role, especially where, as here, the DHR Office is not otherwise fully resourced. Again, these staffing and resourcing challenges result in downstream impacts in terms of the DHR Office’s ability to perform its core functions in a timely and efficient manner.

As discussed below, there is also a potential appearance of a conflict of interest with the DHR Administrator also serving in the capacity of the Associate Vice President for Human Resources.

In terms of documentation and recordkeeping, the DHR Office utilizes Maxient as its case management system to track and document its work. However as described in the Title IX Task Force Report, we learned that the university recognizes the limitations of the existing software system, particularly as it relates to tracking cases through the process and data. Consequently, consistent with the Title IX Task Force Report recommendation, we recommend “exploring software systems for reporting and tracking that are more robust, which can further guide future recommendations pertaining to equity, identification of patterns with corresponding training/outreach/support and streamlining the process.”

C. Visibility and Community Awareness

We received feedback and observed challenges in terms of the visibility of the Title IX and DHR Offices, and the community’s awareness of those offices. Administrators and community members reported that the Title IX Office is not well known by students, staff, or faculty, with many students not knowing what the Title IX Office is or does, or what the Title IX process entails. We learned that this gap in awareness is

particularly acute for students of color and other marginalized student populations, which will require prevention/education programming to bridge the gap. At the time of our campus visit, and in part because of the staffing issues described above, the Title IX Office was doing very little in the way of community outreach, such as tabling events. Additionally, as noted below, the Title IX Office’s website is lacking in substance and is not easily located when searching the internet, which significantly curtails the visibility of the Office. Finally, the Title IX Office was housed on the fourth floor of the library, which we learned was intimidating for many and raised privacy concerns. We note it has moved, as recommended by the Title IX Task Force to a central location. It is now housed in the Student Union Building, which is viewed as an open, and welcoming location for all community members. We understand that there has been increased outreach in spring 2023 to raise awareness about the new office location and structure.

Similarly, we learned from administrators and community members that students, faculty, and staff had limited awareness of the university’s DHR function. This limited awareness was particularly evident with the student and faculty populations because the DHR Office sits within Human Resources, which is viewed as a staff-serving function rather than a function that serves the entirety of the university.

Compounding these structural concerns is the fact that Fresno State has separate offices for Title IX and DHR, which creates a dynamic where the visibility of each function is diluted and institutional responses may be siloed or fractured, instead of streamlined. One administrator commented that having two separate offices for these functions can be confusing for community members, and stated, “Our campus members shouldn’t have to figure out which office to go to – Title IX or DHR. We should have one touchpoint with an intake person who should be figuring that out.”

D. Websites

The websites for the Title IX and DHR Offices need substantial improvement. They lack a significant amount of relevant substantive information and are not user friendly. Additionally, and related to the visibility issues addressed above, the Title IX Office’s website is not among the top search results when one Googles “Fresno State Title IX” or “Fresno State Title IX Office.” Rather, the top search results on Google include information from the Office of the President about the University’s [Title IX Task Force](#), as well as information about Title IX from other campus offices such as the [Cross-Cultural and Gender Center](#). The Title IX Office’s actual website appears to be most easily accessible through the link on the footer of almost all Fresno State websites titled “Title IX Compliance.”

In its current form, the [Title IX Office's website](#) contains only:

- A Notice of Non-Discrimination on the Basis of Gender or Sex
- Contact information for the Title IX Coordinator and U.S. Department of Education's Office for Civil Rights
- A link to the Nondiscrimination Policy
- A link to Fresno State's 2021-22 Title IX Annual Report
- Links to online incident reporting form, and
- Information regarding available resources (including Survivor Advocacy Services) and other reporting options (including law enforcement).

Other than the name and contact information for the Title IX Coordinator, there is no information (including names, photos, or contact information) for any other members of the Title IX Office staff. Moreover, the website contains links for three separate Maxient online incident reporting forms: a Title IX [Reporting for Self](#) form; a Title IX [Reporting for Someone Else](#) form; and a [Reporting as a CSA](#) form. To avoid potential confusion and to streamline the incident reporting process, we recommend having only one Title IX incident reporting form on the website (which can be filled out by anyone regardless of their status).

The Title IX Office's website needs to be updated to increase user accessibility, improve nature and quality of information shared, and facilitate engagement with the office. The website should be refreshed to frontload information about all reporting options, resources (confidential and non-confidential/private), an overview of resolution options, and clear information about what happens when a report is received. In particular, there is a need for significantly expanded information about supportive measures and care, which are not described on the website. The website is the primary source of information to the community about the Title IX Office and should clearly reflect its purpose, its resources, and its function. The University must also ensure that the website is user friendly, welcoming, accurate, accessible, and populates at the top of internet search results when one attempts to search for it on the internet.

The [DHR Office's website](#) is a subsection of the University's Human Resources website. The DHR website should be updated and refreshed in a similar way to the Title IX website. We note, however, that the DHR website does include additional useful information, including a DHR Office [staff directory](#), information about responsible employee reporting responsibilities (under the "Reporting Responsibility" dropdown), and information about the Office's functions, services, and operations (under the "Resources and Support" dropdown).

Finally, campus partners' websites should ensure the provision of updated and accurate information including definitions, resources, resolution options. For example the "terms and definitions" section of the Survivor Advocacy Services webpage should be reviewed and revised with definitions consistent with the Nondiscrimination Policy and California law. Notably, Fresno State Police Department's website has no reference to sexual assault reporting, resources, or services. We recommend updating campus partners' websites to ensure consistent messaging and easy access to available resources and supports for those the university serves.

E. Reporting Options

Reports can be made to the Title IX Coordinator or the DHR Administrator in person or via email, telephone, or through online reporting forms that are accessible on the [Title IX Office's website](#) and [DHR Office's website](#). Reports can be made by complainants directly or through third parties (e.g., responsible employees or union representatives). As described above, there are separate online reporting forms for Title IX and DHR incidents depending on whether the reporter is the complainant or a third party. In total, there are four separate online incident reporting forms: a Title IX [Reporting for Self](#) form; a Title IX [Reporting for Someone Else](#) form; a DHR [Reporting for Yourself](#) form; and a DHR [Reporting on Behalf of Others](#) form.

With respect to anonymous reporting, the Title IX Reporting for Self form explicitly states, "You may remain anonymous; however, that limits our ability to take some actions." The other reporting forms do not address anonymity other than to note that responsible employees may not maintain the anonymity of complainants even if requested by them to do so; the forms go on to state, "The [Title IX Coordinator or DHR Administrator] will determine whether such confidentiality is appropriate given the circumstances of each such incident." We note that this statement confuses the concept of "confidentiality" with "privacy" or "anonymity," and should be amended to provide a more nuanced discussion of the difference between privacy and confidentiality, in the Title IX/DHR context.

The online reporting forms are accessible and conveniently placed on the Title IX and DHR Offices' webpages. As noted above, for ease of use by campus constituents, we recommend having only one Title IX incident reporting form, which can be filled out by anyone regardless of their status. Additionally, and related to our recommendation that the university combine its Title IX and DHR Offices, we recommend a single online reporting form for all Title IX and DHR reports.

As described in the Systemwide Report, the online reporting form, as written, asks for detailed information in required sections, which can be intimidating and might discourage a complainant from completing the form.⁴ During our campus visit, we received feedback that the Title IX and DHR online reporting forms required too much information and were therefore viewed as a barrier to reporting. We recommend a review of the reporting forms, with assistance from the Chancellor's Office, to remove as many potential barriers to reporting as possible for students, faculty, and staff.

F. Case Processing

1. Title IX Office

As explained during our campus visit, the Title IX Office typically receives reports by email, phone call, walk-in, or through an online incident report. Most student cases originate as third party reports from faculty members, but the Office also receives incident reports from other offices such as the Fresno State Police Department and Student Housing. In addition, the Office receives reports directly from student, staff, and faculty complainants.

Upon receipt of a report, the Title IX Office conducts email outreach to the complainant. The Title IX Coordinator sends this outreach to the complainant via Maxient, with a read-receipt. The outreach letter, along with accompanying attachments, contains information about the Nondiscrimination Policy, available rights and options, the availability of supportive measures and other resources, and the option to participate in an intake meeting. The letter is modeled off of a template provided by the Chancellor's Office. For Athletics and Housing matters, the Deputy Title IX Coordinator for Athletics handles the intake and, after consultation with the Title IX Coordinator, oversees the resolution.

If a complainant does not respond, the Title IX Coordinator attempts another outreach, either with a more personalized email or – in the event that Maxient shows that the complainant has not read their initial outreach email – by text message or phone call. If the complainant has not responded after multiple outreach attempts, the Title IX Office will close the matter. If the complainant does not wish to meet with the Title IX Office, they still have the option, at any time, to receive supportive measures.

⁴ The Chancellor's Office also publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

If the complainant responds and wishes to meet with the Title IX Office, the Title IX Office arranges an intake meeting with the complainant, either in person or via Zoom. Due to the limited staffing of the Office, the Title IX Coordinator was conducting all intake meetings at the time of our campus visit. During the intake meeting, the Title IX Coordinator explains what the Office does, available resolution options and processes, and available resources, and asks the complainant for high level details about the underlying incident. The Title IX Coordinator takes notes during the intake meeting, and records the notes in Maxient that the meeting occurred and what the next step may be. At the time of our campus visit, the practice of the Title IX Coordinator, due to limited resources, was not to upload her meeting notes to Maxient unless the complainant expressed a desire to move forward with a resolution or unless the intake meeting was substantive in nature.

Now that there is additional staff within the Title IX Office, our recommendations include formally separating the Title IX Office's intake and outreach functions from its investigative functions in order to avoid potential confusion by parties between the Office's responsibility to help the parties through the provision of supportive measures and the Office's responsibility, in cases that proceed to formal resolution, to conduct a neutral and impartial gathering of facts. Our recommendations also include formally documenting and saving to a centralized and accessible location all meeting notes and other case-related materials.

The steps following the intake meeting with the complainant may include the following: provision and oversight of supportive measures, investigation and hearing, informal resolution, or the dismissal of a formal complaint (based on the judgment of the Title IX Coordinator). The provision of supportive measures is managed by the Title IX staff. A complainant may receive supportive measures even if no formal complaint and investigation is sought. The majority of reports to Title IX involve either the provision and oversight of supportive measures only or no response from complainants.

In the event a complainant wishes to proceed to resolution and the Title IX Coordinator determines it is within its jurisdiction to do so, the respondent is provided the same process and access to supportive measures and resources. To the extent a matter does not fall within the Title IX Office's jurisdiction, the Title IX Office refers the matter to the appropriate campus partner. We heard a perception that the Title IX Office exercised its jurisdiction narrowly, without conducting a more fulsome initial assessment that might have provided additional relevant information.

Investigations are conducted both internally and with external investigators as needed.

In the event a case proceeds to a hearing, a hearing officer is selected from a pool of personnel provided by the Chancellor's Office.

As it relates to the role of the Deputy Title IX Coordinator for Athletics, while it is clear she has developed excellent relationships within the Athletics Department, we recommend that the university consolidate responsibility for athletics reports to the Title IX Coordinator or Deputy Title IX Coordinator. The Deputy Title IX Coordinator for Athletics can still do education and outreach, but should not be the individual responding to reports or evaluating whether or not to move forward.

2. DHR Office

Upon receipt of a report, the DHR Administrator will review the report to determine the applicability of the Nondiscrimination Policy. At the time of our campus interviews, the DHR Administrator would conduct intake meetings with complainants, and the DHR's Office's Confidential Analyst (who no longer works in this role) would attend the meetings and take notes. All intake meeting notes were then uploaded to Maxient following the intake meeting. Although the DHR Office conducted some investigations in-house, they relied on external investigators to conduct the bulk of their investigations due to timeliness issues caused by limited internal staffing.

G. Review of Case Files⁵

We reviewed a sample of recent case files, including three DHR files and three Title IX files. In each of the six investigation reports we reviewed, the investigator appears to have gathered and summarized all relevant evidence. Although the reports did not follow a consistent format, they were each organized and clear.

With respect to timeliness, our review reflected no concerns in the Title IX matters, but some concerns about delays in the DHR matters. In the three Title IX cases we reviewed, the time between the initial complaint and the final investigation report was 5 months, 9 months, and 10 months, respectively. We

⁵ 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.

found those timeframes reasonable based upon the complexity of the cases, number of witnesses, and volume of evidence to be collected and synthesized. In the DHR cases we reviewed, there was delay in two of the three cases. In the first DHR matter, there was a 5-month delay between the time the complainant reported the concern to the university and when the university engaged the external investigator to conduct the investigation. This resulted in the matter taking over one year from initial complaint to final report. In the second DHR matter, both the summary of evidence and the written determination contained numerous factual inaccuracies which necessitated the issuance of amended summaries and an amended report. This caused cumulative delays of several months, resulting in the matter taking a total of 8 months. Further, there was an one-month gap between when the internal investigator prepared the corrected investigation report and when the university issued the corrected report to the parties. In the third DHR matter we reviewed, we did not note any delays or gaps. The investigation reached a final report within 8 months, which we found reasonable in light of the nature of the report.

H. Community Feedback About Title IX and DHR Offices

As noted above, a consistent theme that emerged during our meetings with administrators and university constituents was that there was a knowledge gap in the community in terms of awareness of the Title IX and DHR Offices and their purpose. Although not everyone with whom we spoke had firsthand interactions with these Offices – and their accounts may be anecdotal in nature – students, faculty, and staff shared with us their common perception that “nothing happens” when reports are made to these offices.

Some campus constituents reported to us their perception that the Title IX Office felt “clinical” and suggested that the Survivor Advocate should be integrated into the process from the outset. They explained that the Office’s approach in the past had been “inconsistent” in terms of being trauma-informed, and they further described how their experiences had been “hit or miss” – sometimes they had “great” experiences and sometimes they had “horrible” experiences.

In terms of procedural aspects relating to Title IX, some individuals reported with respect to the provision of supportive measures that the Title IX Office placed too much responsibility on the shoulders of the complainant to identify and request such measures, and that the Office did not follow up to ensure that they were implemented. We also received reports that timeliness was an issue. As noted above, the Title

IX Office was understaffed, which necessarily impacted the timeliness of the Office’s responsiveness and quality of their interactions. This observation was echoed by an administrator who, after acknowledging the resource constraints of the Title IX and DHR Offices, said it was “embarrassing” that the Offices had to “constantly apologize to people” about not being able to complete investigations in a timely manner.

Finally, administrators and other members of the University community reported that the DHR’s reporting structure within Human Resources was a barrier to utilizing the DHR Office. These individuals explained that faculty and students may feel discouraged going to Human Resources, which is generally viewed as a staff resource. And others reported that it was a conflict for the Associate Vice President for Human Resources to also serve in the role of DHR Administrator because the DHR Administrator is supposed to be neutral, but, in her Human Resources role, she imposes sanctions for staff members; this dual role was therefore cited as an additional barrier to utilizing DHR’s services.

VI. 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;⁶ (ii) adopt grievance procedures that are prompt and equitable;⁷ and (iii) publish a non-discrimination statement.⁸ 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,⁹ we incorporate the Title IX framework as it relates to these core requirements, because they apply equally to DHR program.

⁶34 C.F.R. § 106.8(a).

⁷34 C.F.R. § 106.8(b).

⁸34 C.F.R. § 106.8(c).

⁹ 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), 104.8 (Section 504), and 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

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.¹⁰ 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.¹¹ The Title IX Coordinator's role and responsibilities should be clearly defined, and the institution must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school 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.¹² The Title IX regulations detail the responsibilities of the Title IX Coordinator, which include, among other things:

1. Receiving reports and written complaints;¹³
2. Coordinating the effective implementation of supportive measures;¹⁴
3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;¹⁵
4. Considering the wishes of the complainant with respect to supportive measures, explaining the process for filing a formal complaint;¹⁶

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.

¹⁰ 34 C.F.R. § 106.8(a).

¹¹ *Id.*

¹² *Id.*

¹³ 34 C.F.R. § 106.30(a)(defining "actual knowledge" as including notice to the Title IX Coordinator).

¹⁴ 34 C.F.R. § 106.30(a)

¹⁵ 34 C.F.R. § 106.44(a)

¹⁶ 34 C.F.R. § 106.44(a)

5. Attending appropriate training;¹⁷
6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;¹⁸
7. Overseeing the prompt and equitable nature of any investigation or resolution, and;¹⁹
8. Overseeing effective implementation of any remedies issued in connection with the grievance process.²⁰

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.²¹ Generally, Title IX Coordinators and DHR Administrators should be positioned 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

¹⁷ 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 § 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.")

¹⁸ 34 C.F.R. 106.45(b)(1)(iii).

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

²⁰ 34 C.F.R. 106.8(a); 34 C.F.R. 106.45(b)(7)(iv).

²¹ 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."

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) 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.”²² 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 campus 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.

Here, the Title IX Coordinator is insufficiently resourced, but is appropriately positioned within the organization. The university's Title IX Coordinator has served in that role since 2018 and her contact information – as well as contact information for the Title IX Office more broadly – is displayed on the Title IX Office's [website](#). The Title IX Coordinator is also appropriately positioned organizationally, as she reports to the Vice President for Administration and Chief Financial Officer. In terms of resources, the Title IX Office struggles in much the same way as other Title IX offices across the system. Until recently, the Title IX Office operated as “an office of one.” While some staff have recently been added, and the Title IX Office now has 3.25 employees (consisting of the Title IX Coordinator, a Deputy Title IX Coordinator, a Deputy Title IX Coordinator for Athletics (.25 FTE), and a Confidential Administrative Support Person) – these staffing levels are still insufficient to meet the needs of a university the size of Fresno State.

With respect to the DHR Administrator, we similarly find that this function is insufficiently resourced, but appropriately positioned within the university as she reports to the Vice President for Administration and

²² 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.”

Chief Financial Officer. The DHR Administrator’s contact information – as well as contact information for the DHR Office more broadly – is displayed on DHR’s [website](#). Until recently, the DHR Office also operated as “an office of one.” While a Deputy DHR Administrator has recently been added (bringing the DHR function to a total of two employees), this staffing level is also insufficient to meet the demands of the DHR responsibilities, as well as the needs of a university the size of Fresno State.

We further note that the challenges with respect to resources for the Title IX and DHR Offices are exacerbated in that the Title IX Coordinator and DHR Administrator each have other significant responsibilities as part of their official portfolios. The Title IX Coordinator oversees the University’s Clery Act compliance function, and the DHR Administrator oversees Human Resources, both of which are full time functions in addition to the Title IX and DHR functions.

Finally, whereas the Title IX Coordinator is free from conflict in her role, the DHR Administrator has a potential conflict in terms of her dual role at the University. As the Associate Vice President for Human Resources, she plays a part with respect to employee discipline, but as the DHR Administrator she must remain neutral. Further, we observed that the placement of the DHR function in Human Resources, is viewed as a barrier to reporting for students and faculty members.

B. Notice of Non-Discrimination

The Title IX regulations require that institutions publish a non-discrimination statement.²³ 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;²⁴
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.

²³ 34 C.F.R. § 106.8(b)

²⁴ 34 C.F.R. § 106.8(b)

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.²⁵

Fresno State publishes a [Notice of Non-Discrimination on the Basis of Gender on Sex](#) on the Title IX Office’s website. The Notice states that the University does not discriminate on the basis of gender, which includes sex and gender identity or gender expression, or sexual orientation, in its education programs or activities, including employment and admissions. According to the Notice, this prohibition on discrimination extends to sex discrimination, which includes sexual harassment and sexual violence. The Notice provides the required contact information for the campus Title IX Coordinator and for OCR. The Notice is accessible on the University’s website in the footer for each page but is not listed on the University’s Athletics page.

Separately, Fresno State’s [DHR website](#) states that the University “is committed to maintaining an inclusive community . . . [and] embrace and encourage[s] our community differences in Age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, and Veteran or Military Status, and other characteristics that make our community unique. All individuals have the right to participate fully in CSU programs and activities free from Discrimination, Harassment, and Retaliation.” The University does not otherwise publish a broader notice of non-discrimination across its web presence. Such a Notice, while not a requirement of Title IX, would be consistent with the purpose of Title VI and Title 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

²⁵ 34 C.F.R. § 106.8(b)(2).

complies with [34 C.F.R. § 106.45] for formal complaints”²⁶ The regulations further require educational institutions to provide notice of the grievance procedures and process, including how to 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.²⁷

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 this Policy, there are three possible sets of procedures (or “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 Policy.

This Policy, which applies to all 23 CSU campuses, reflects an attempt by the CSU System to map, under one omnibus policy document, 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 Policy is consistent with the legal requirements of Title IX, implementers and campus constituents from every university consistently expressed to Cozen O’Connor in no uncertain terms that the Policy was impenetrable in practice; that it was dense, lengthy, difficult to navigate, and bred confusion. These implementers and university constituents expressed a desire for the Chancellor’s Office to simplify its processes and 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.

²⁶ 34 C.F.R. § 106.8(c).

²⁷ *Id.*

The CSU's prohibition against certain consensual relationships is embedded within the Nondiscrimination Policy. We learned that at many of the CSU universities, the prohibition is not adequately communicated to the campus community, limited or no training is offered on the prohibition, and the prohibition is not enforced. 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. On many campuses, this was an issue of significant concern for faculty and staff.

VII. Campus Coordination

During our campus visit, administrators and key university partners highlighted the university's coordination on Title IX and DHR matters as a strength. They spoke highly of the collaborative working relationships and frequent communications between and among various departments and the Title IX and DHR Offices. They also praised the work of the CARE Team in making sure there was a coordinated and streamlined approach to addressing the needs of students in distress.

Despite these healthy collaborations, the coordination that occurs with respect to the university's Title IX and DHR responses was reported to be organic and on an as-needed basis, rather than structured. The university does not have a formal multidisciplinary team / initial assessment team in place that meets on a regular basis – in a similar fashion to the CARE Team – to discuss student, staff, and/or faculty Title IX/DHR cases. However, we observed a strong openness and willingness among all university partners to institute such a routinized and structured meeting.

Additionally, we learned that differences in documentation and recordkeeping practices across campus offices posed a challenge to effective coordination and informed decision making. Although multiple offices use Maxient as their case management software (including Title IX, Student Conduct, and Housing), restrictions and firewalls prevented the Title IX Office from being able to see records from other offices. Additionally multiple offices utilize the software in different ways, precluding seamless integration. Further we learned that the software does not allow for real time tracking and analysis of objective data, and has limits on the search function. Finally, because Title IX and DHR cases are handled by separate offices, the sharing of records, documentation, and information between those offices is not as streamlined and efficient as it would be if those functions were combined.

A. University Police Department

The [Fresno State Police Department](#) consists of 27 (budgeted) sworn police officers, seven dispatchers, three Professional Staff, and 14 Community Service Specialists. As of July 2023, the Fresno State Police Department had three [open positions](#) listed for Police Dispatcher, Temporary Police Dispatcher, and Community Services Specialist. The Chief of Police reports to the Vice President for Administration and Chief Financial Officer.

The Fresno State Police Department has authority to enforce laws and make arrests under 830.2 (c) of the California Penal Code. The Department issues timely warnings as required under the Clery Act, and uses a written assessment form for determining whether or not to issue timely warnings.

The Police Department also offers public safety, crime prevention, and service [educational and informational programs](#). However, the Department's website contains no information about sexual crimes or prevention, and does not have links to available resources such as the Title IX Office or Survivor Advocacy Services. The Police Department does not conduct criminal sexual assault investigations, instead they provide information to survivors and take courtesy reports which are then referred to the Fresno Police Department. After obtaining a complainant's consent, the Fresno State Police Department refers potential Title IX related conduct to the Title IX office.

The Police Department provides a [Threat Assessment & Risk Prediction](#) (TARP) function for the university. This function is one of the services provided through the University's [Behavioral Intervention Team](#) (BIT), described below.

B. Student Conduct

Fresno State's [Office of Student Rights and Responsibilities](#) is housed within the Office for Student Affairs and Enrollment Management. The Office administers the Student Conduct Code by educating students about their rights and responsibilities and providing feedback about behaviors that affect themselves and the campus community. The Office also administers the [Student Code of Conduct process](#). When a complaint is filed with the Office, a student conduct administrator conducts the factual investigation and determines the outcome (policy violation and sanction, if applicable). The Office also handles matters related to [academic integrity](#).

The Office of Student Rights and Responsibilities does not investigate any conduct implicated by Title IX, and instead refers these matters to the Title IX Office. To the extent the Title IX Coordinator, on her own or after consultation with the CARE Team (described below), completes an initial case assessment and determines that the conduct at issue does not meet the threshold for a Title IX violation, the Office of Student Rights and Responsibilities investigates these claims. The Office also assists with implementation of sanctions following informal resolution of Title IX matters.

C. Housing Department

The Housing Department at Fresno State includes five senior staff members, including a Director of Housing, Assistant Director of Housing, Marketing and Summer Conference Coordinator, Accounting Technician, and Administrative Support Coordinator. The Director of Housing reports to the Executive Director of Auxiliary Services and the AVP of Student Life and Dean of Student Affairs. In addition to the senior staff, Residential Life employs Resident Directors, Assistant Resident Directors, Resident Advisors, and other professional and student employees including public safety assistants, marketing, and accounting professionals.

As noted above, the Director of Housing serves as the Deputy Title IX Coordinator for Housing and Athletics.

D. Faculty Affairs

The Division of Academic Affairs at Fresno State contains the Office of Faculty Affairs. The [Office of Faculty Affairs](#) “serves and advises faculty and administration on all matters relating to academic personnel,” including “appointment, reappointment, tenure, promotion, leaves, and grievances.” The office consists of an Interim Associate Vice President, and six additional staff members, some of whom are part time employees. The Associate Vice President oversees the beginning stages of grievance procedures, including for those grievances alleging unprofessional conduct, and related faculty matters.

E. Human Resources

Fresno State’s Human Resources Department is led by an Associate Vice President for Human Resources. Human Resources provides services related to hiring, benefits, employee and labor relations, recruitment, compensation, and payroll. The office also oversees grievance procedures pursuant to Collective Bargaining Agreements. The [Employee and Labor Relations](#) program is responsible for “identifying and

resolving workplace concerns and issues in an expeditious manner,” and its Human Resources generalists consult with managers and staff members to mediate and resolve employee issues. The Labor relations Program is responsible for providing leadership and support for collective bargaining, administering and supporting the implementation of negotiated contracts, processing grievances, interpreting labor agreements, and providing professional development for supervisors. According to the University’s [organizational chart](#), there is currently a vacancy for the role of Director of Employee and Labor Relations.

As noted throughout this report, Human Resources also houses the University’s DHR function.

F. Clery Act Responsibilities

As noted elsewhere in this report, the University’s Title IX Coordinator also serves as the Clery Director. In this role, the Clery Director is responsible for maintaining information necessary to prepare the University’s [Annual Security Report](#) (ASR), and for identifying and training campus security authorities (CSAs). The Clery Director serves on the cross-departmental [Clery Compliance Team](#), which meets twice a semester, and is tasked with assisting the Clery Director in the collection of information and crime statistics, assisting in writing developing, reviewing, and ensuring accuracy of the ASR and campus policies, assisting in proper identification of Clery Geography, assisting in programming, training and outreach efforts, and assisting in overall Clery Compliance.

Pursuant to Fresno State Police Department [policy](#), the Police Department is responsible for issuing timely warnings to the community, with the Chief of Police responsible for assessing whether a timely warning must be issued. The Chief of Police may consult with the Clery Director in making this assessment.

VIII. Campus Resources for Students and Employees

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

A. Confidential Advocate²⁸

Fresno State now employs two Campus Survivor Advocates, who sit within the [Survivor Advocacy Services](#) office in the Student Health, Counseling and Wellness department. The Survivor Advocate function reports to the Director of Wellness Services. At the time of our campus engagement, Fresno State had only one Survivor Advocate for 24,000 students, plus staff and faculty. Administrators reported that the Office needed additional resources because the Survivor Advocate was stretched too thin and could not effectively respond to client needs while also performing proactive prevention and education duties. A second Survivor Advocate was hired in January 2023.

Survivor Advocacy Services is a resource for students, staff, and faculty impacted by interpersonal violence. The Survivor Advocates are responsible for advocacy and prevention and education programming. They also provide crisis counseling and case management; advocacy and safety planning; academic, work and housing accommodations; accompaniment to law enforcement meetings, court, medical appointments, academic meetings and Title IX meetings; information about reporting options, Title IX, and law enforcement process; and, referrals for on and off campus resources. The Survivor Advocates offer confidential and non-judgmental support, and information about rights and options to help individuals make informed decisions. In addition to these services, the Confidential Advocates operate a number of [counseling groups](#), including one for Domestic Violence Support and one called “Healing Hearts” for students affected by sexual trauma. Survivor Advocacy Services also refers survivors to community-based sexual assault and rape crisis centers which are available 24 hours a day, 7 days a week.

Over the past three years, the Survivor Advocates have assisted hundreds of clients: 103 clients utilized the service in 2019-2020; 99 in 2020-2021; and 116 in 2021-2022. Most of these clients were students. At Fresno State, like most universities in the system, faculty and staff were much less familiar with the role of a confidential advocate, and did not identify it as a resource available to them.

²⁸ The Confidential Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

We learned during our campus visit meetings that the Survivor Advocate is typically invited to accompany complainants to meetings with the Title IX Office after the initial intake meeting. There is an opportunity to proactively involve the Survivor Advocate at an earlier stage in the process.

B. Respondent Support

Like most other CSU universities, Fresno State does not have any dedicated resources uniquely for respondents, such as a dedicated support person for respondents or a respondent advisor program. In the event a Title IX case proceeds to a hearing, the Chancellor's Office provides a hearing advisor to respondents if they do not already have their own advisor, as required by the federal Title IX regulations. While there is no requirement to have a respondent support person or advisor, we recommend that Fresno State identify a dedicated resource to address the unique needs of respondents in the grievance process.

C. Student Health and Counseling Center

Fresno State's Student Health and Counseling Center offers counseling, groups, workshops, wellness, and crisis services to undergraduate and graduate students. Students may receive a set number of individual sessions per academic year, before they will be referred to longer term counseling available in the community. In addition to these services, the Student Health and Counseling center offers Project HOPE, which consists of Clinical Social Workers, Graduate Assistants, and Interns that form Case Management Teams.

The [Student Health and Counseling Center](#) also offers basic medical care for students in a campus environment. Services include: diagnosis and treatment of injuries and illnesses, immunizations, first aid, medical exams, physical therapy, dermatology, sexual and reproductive health, limited minor procedures, and on site x-ray, laboratory, and pharmacy services.

D. Other Resources for Students

Students have access to a number of on-campus resources that are available through the [Cross-Cultural and Gender Center](#). The Cross-Cultural and Gender Center "exists to contribute significantly to the continued development of a safe and welcoming environment for the Fresno State Community." The Center provides programming and services related to African-American, American Indian, Asian and Pacific Islander, Gender, Latino/a, and LGBTQ+ interests.

The University also has a [Campus Assessment, Response, and Evaluation \(CARE\) Team](#), which promotes the safety and wellness of the campus community by addressing situations where students are displaying behaviors that are disruptive, threatening, or concerning which may potentially impact their ability to be successful and safe. The CARE team consists of a multi-disciplinary group of individuals from various University offices. The Team meets weekly to coordinate their approach to cases. The CARE Team consists of the Director of Title IX and Clery Compliance, the Director of Counseling and Psychological Services, the University Police Lieutenant, the University Housing Director, Clinical Case Managers for the Student Health and Counseling Center, the SupportNet Coordinator, the Services for Students with Disabilities Director, the Director of Student Conduct, the Assistant Director of the University Advising Center, and the Interim Dean of Undergraduate Studies.

Fresno State has a [Behavioral Intervention Team](#) (BIT), which is responsible for assessing reports of troubling behavior on the part of students, faculty, or staff, and implementing interventions that are in the best interest of the University and the individual. BIT is comprised of three sub-teams comprising members from various offices whose purpose is to support students, faculty, and staff who may have a concern about another member of the Fresno State community. The three teams comprising BIT are: [Threat Assessment & Risk Prediction](#) (TARP), whose purpose is to improve community safety through a proactive, collaborative, coordinated, objective, and thoughtful approach to the prediction, identification, assessment, intervention, prevention and management of situations that pose or may reasonably pose a threat to the safety and well-being of the campus community; [Sexual Assault & Relationship Violence Response Team](#) (SART), whose purpose is to address sexual violence, dating/domestic violence, sexual harassment, and stalking through the creation and coordination of policies, procedures, prevention and response which create a positive community culture that promotes healthy and respectful interactions and safety for all; and the CARE Team, described above. Collectively, these three teams serve as a resource to faculty, staff, administration, and students in providing assistance with intervention plans, resources, training and education.

Finally, the university also offers services to students experiencing food insecurity, hunger, disasters, unstable housing, homelessness, and poverty. Through the [Basic Needs](#) program, the university assists students with, among other things, access to food and rapid re-housing.

E. Resources for Employees

Fresno State offers an [Employee Assistance Program](#) (EAP), administered by Empathia, for all employees of the University. The program is designed to provide resources for professional assistance to faculty, staff, and their families (dependents and permanent household members) in assessing and resolving personal problems such as stress, depression, alcohol or drug dependency, workplace conflict, and family or relationship concerns that may be affecting well-being or job performance. Resources available to employees include counseling services, campus resources and referrals to community resources.

IX. Prevention, Education, Professional Development, Training and Awareness²⁹

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.³⁰ Even if responsibilities are shared with a Confidential Advocate, the Title IX Coordinator “remains primarily responsible for all campus-based prevention and awareness activities.”³¹ 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.³²

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

²⁹ 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.

³⁰ See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

³¹ See Attachment C: Confidential Sexual Assault Victim's Advocates.

³² *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.”

A. Students

Across the CSU, all students are assigned completion of an online training every year. In addition, certain student populations, including athletes, members of fraternities and sororities, and club/organization officers, are also required to receive supplemental Title IX training. It was reported to us that Fresno State does the “bare minimum” in terms of Title IX training, apart from the required online modules and supplemental trainings. We received feedback at Fresno State, as we did from students at other CSU universities, that the online modules were ineffective. There is no information about prevention or education programming on either the Title IX or DHR website.

Administrators reported that the programming, to the extent it exists, has fallen primarily to the Survivor Advocacy Services office, with assistance from the Student Health and Counseling Center/Wellness Services. Among the [programming](#) offered by these resources is a Domestic Violence Support Group; Healing Hearts Among (a safe forum for healing for students affected by sexual trauma); and a workshop on healthy relationships. They also conduct trainings on bystander intervention and sponsor programming for domestic violence and sexual assault awareness months. At the time of our campus visit, due to resource and time constraints, Survivor Advocacy Services was prioritizing its crisis intervention and advocacy work (roughly 90%) over prevention and education programming (roughly 10%).

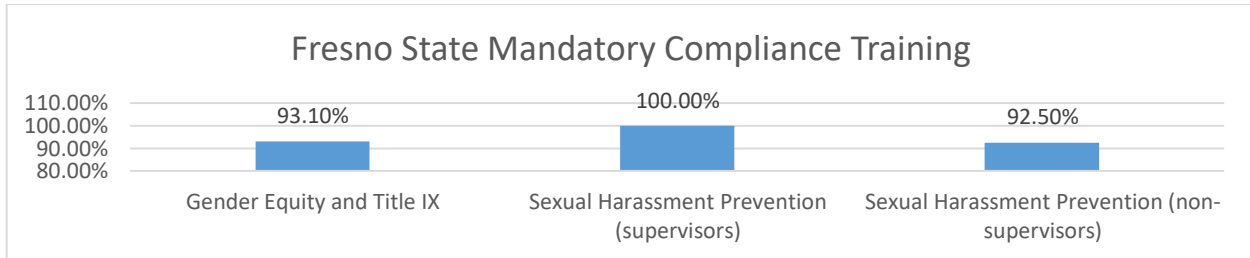
We note that Fresno State’s Annual Security Report, required under the Clery Act to list primary prevention and awareness programs offered, notes that the CSU system provides primary prevention and awareness programs, but does not specifically detail any programming specific to Fresno State. We recommend prioritizing the provision of this federally required programming.

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 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 Fresno State for the 2022 calendar year.³³



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

C. Coordination

While there are organic and positive relationships among campus partners, there is no coordinated, strategic approach to prevention and education programming. In addition, given resource and personnel constraints, there is a dearth of prevention and education programming. Efforts are *ad hoc* and there is little required programming beyond the online modules for staff, faculty, and students. Further the Confidential Advocate, who assists in the provision of the prevention and awareness programming, has not had sufficient resources to do both direct advocacy, and prevention and education programming. As a consequence, prevention and education has not been provided in a manner that effectively delivered necessary content or reached required audiences. We recommend that Fresno State dedicate resources to build a formalized prevention and education program, hire a dedicated prevention and education coordinator and form a university Prevention and Education Oversight Committee, to address all forms of discrimination and harassment, including sexual and gender-based harassment and violence. We recommend that the prevention and education coordinator work with Title IX/DHR personnel at the Chancellor’s Office and University Counsel, to map all applicable federal, state or local requirements related to prevention and education programming, including the topics to be covered, the audiences to receive training, the frequency and timing of the training, and the modality. After dedicated resources are

³³ These percentages have been validated by each campus. Please note employees designated by their campus as “on leave” were removed from these final percentages.

in place, we recommend that the Prevention and Education Oversight Committee and the prevention and education coordinator focus on developing programming based on case data and analysis that serves the unique needs of Fresno State's community and evidence-based effective prevention work.

X. Other Conduct of Concern

As with other universities across the CSU system and nationwide, Fresno State has grappled with conduct issues that may not rise to the level of a potential policy violation but that nonetheless have disrupted living, learning, or working environments for some individuals. 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. As noted elsewhere, this includes:

- 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.

Fresno State, like universities across the system, has struggled with providing a consistent response mechanism for addressing issues relating to civility, bullying, protected speech that negatively impacts constituents, and actions and words that may constitute misconduct or unprofessionalism but that do not relate to protected status and/or do not rise to the level of being sufficiently persistent, severe, and/or pervasive.

As with nearly every CSU university, the feedback we received at Fresno State regarding this *other conduct of concern* was that it was not being triaged effectively and that the university's response mechanisms seemed *ad hoc* and inconsistent, which contributed to a perception that there was a lack of concern or accountability with respect to such behaviors, which, in turn, has undermined the effectiveness of the Title IX/DHR Office.

As noted above there is a common perception at Fresno State that "nothing happens" when a report is made. Some individuals shared that complainants are routinely "turned away" because the reported conduct did not rise to the level of a potential violations, and others shared more generalized barriers to

reporting relating to procedural aspects of going through a formal investigation. Staff members reported that they did not feel heard or supported in their interactions with the Title IX and DHR Offices, with one staff member explaining that “the run of the mill discrimination that happens over and over is part of the everyday experience” and “so many people have spun the hamster wheel.” We also heard anecdotal accounts of employees and students choosing to leave Fresno State because of concerns in the workplace or education program that were not remedied because they “did not rise to the level of a policy violation.”

At Fresno State, we encountered many individual “problem solvers” in the administration who have stepped up in an attempt to address *other conduct of concern* in the absence of a formal structure for doing so. However, in practice, *other conduct of concern* at Fresno State is addressed by referring incidents to campus partners. Depending on the involved parties, the report may be referred to Student Affairs, Faculty Affairs, or Human Resources. Unfortunately there is no routinized practice, no documentation protocols, and importantly, no suite of effective or readily available resolution options.

The university does not have an ombuds function, although community members expressed support for an ombuds or similar conflict resolution mechanism. Additionally, the university does not have a bias incident reporting mechanism and could benefit from a strengthened employee relations function.

We note that the university conducted a student campus climate survey in 2019. The goal of the survey, which was sponsored by the [President’s Commission on Human Relations and Equity](#), was to gather “data to support and inform points of action that may range from informing policy and practice to providing actionable information that improves campus life and a sense of belonging among students.” Based on data gathered in the survey, over 93% of students had never experienced sexual harassment or other forms of harassment, but “about one-quarter of students have either witnessed some form of discrimination or heard some form of disparaging racial remarks [or racial microaggressions] from other students.” The survey further found that “[m]icroaggressions from faculty (6.6% sometimes; 1.5% often/very often) and from staff (5.0% sometimes; 1.9% often/very often) are much less by comparison with student-to-student interactions.” Moreover, the survey found that “10.4% of students somewhat agree and 7.6% strongly agree Fresno State ‘has a lot of racial tension.’”

At the time of our campus visit, Fresno State did not have a Chief Diversity Officer. However, in December 2022, the university hired its first ever [University Diversity Officer](#) (UDO). Since January 2023, the UDO has led Fresno State’s Division of Equity and Engagement, whose [mission](#) is to “weave[] equity and

inclusivity into the fabric of every aspect of the institution.” The Division oversees the [Cross-Cultural and Gender Center](#).

As outlined in more detail below we recommend the university invest in the development of a suite of conflict resolution resources and professionals, that may include mediation, restorative justice options, employee relations facilitators, an ombuds.

XI. 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. Ensure that assigned implementers do not have other institutional responsibilities that create potential conflicts
- 3.2. Evaluate assigned roles to ensure that assigned implementers have the capacity to successfully implement assigned responsibilities
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. Consolidate the Title IX/DHR program into one centralized office
6. Work with the Chancellor's Office to implement an enterprise-level case management system and develop protocols for consistent collection and retention of data
7. 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
8. 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.)
9. 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, similar to the CARES Team
 - 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. 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

- 1.5.5. 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
 - 1.5.6. 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
 - 1.5.7. 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
 - 1.5.8. 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 documentation protocols and requirements for all phases of the response process, including intake, support, investigative, and adjudicative.
 - 1.6.5. Implement unit level quality control systems as well as periodic supervisory 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 Non-Discrimination
 - 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 non-discrimination, 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. Ensure all campus partner's websites are updated with accurate information related to Title IX and DHR, including accurate definitions and information about resources, support, and resolution options.
- 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. Convene a university-wide Prevention and Education Oversight 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. Ensure training includes the following content: the care-compliance continuum; respectful and inclusive environments; conflict resolution; bystander intervention strategies; effective leadership and supervision; and, reporting responsibilities under Title IX, the Clery Act, CANRA, and related federal and state reporting laws
 - 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

19. Dedicate programming to reach marginalized student populations (LGBTQIA+, undocumented students, international students, students of color) to ensure accessibility to resources and support
20. Identify resources to implement the VAWA required offerings of primary prevention and awareness training

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 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 Population³⁴

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

| California State University Fresno State | | | |
|--|--|---|----|
| Location Information | | | |
| Location: Fresno State, CA (pop. 545,567) ³⁵ | County: Fresno County (pop. 1,015,190) ³⁶ | Locale Classification: Large City ³⁷ | |
| University Information | | | |
| President: Saúl Jiménez-Sandoval, Ph. D. (May 2021-present) | | | |
| Designations: Hispanic Serving Institution (HSI) ³⁸ Asian American and Native American Pacific Islander-Serving Institution (AANAPISI) ³⁹ | | | |
| Students – Enrollment Data ⁴⁰ | | | |
| Total Number of Students | | 24,002 | |
| State-Supported | | Self-Supported | |
| Undergraduates | 21,279 | Undergraduates | 52 |
| Grad & Post Bac Students | 2,650 | Grad & Post Bac Students | 21 |
| Student Ethnicity ⁴¹ | | | |
| Overall (includes State- and Self-Supported) | | | |
| Hispanic / Latino | | 59% | |
| White | | 17% | |
| Asian | | 12% | |
| International Student | | 3% | |
| Race and Ethnicity Unknown | | 3% | |
| Black / African American | | 3% | |
| Two or More Races | | 2% | |
| Native Hawaiian / Other Pacific Islander | | <1% | |
| American Indian / Alaska Native | | <1% | |

³⁴ Unless otherwise noted, Cozen O'Connor obtained data concerning California State, Fresno's demographics, populations, Title IX and DHR staffing, operations and caseload from California State University and Fresno State sources. This report will be updated to reflect material inaccuracies brought to our attention on or before September 15, 2023.

³⁵ United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/fresnocitycalifornia/PST045221>, population estimate as of July 1, 2021.

³⁶ United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/fresnocountycalifornia/PST045221>, population estimate as of July 1, 2021.

³⁷ Defined as a territory inside an urbanized area and inside a principal city 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>.

³⁸ 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>

³⁹ 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>

⁴⁰ California State University Enrollment Data, Fall 2022, Cal State Fresno State: 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.

⁴¹ *Id.* This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

| State-Supported (23,929 students) | | Self-Supported (73 students) | |
|---|--------------|--|-------------|
| Hispanic / Latino | 59% | Hispanic / Latino | 48% |
| White | 17% | White | 34% |
| Asian | 12% | Asian | <1% |
| International Student | 3% | International Student | <1% |
| Race and Ethnicity Unknown | 3% | Race and Ethnicity Unknown | <1% |
| Black / African American | 3% | Black / African American | <1% |
| Two or More Races | 2% | Two or More Races | <1% |
| Native Hawaiian / Other Pacific Islander | <1% | Native Hawaiian / Other Pacific Islander | <1% |
| American Indian / Alaska Native | <1% | American Indian / Alaska Native | <1% |
| Other Student Demographics ⁴² | | | |
| Overall (includes State- and Self-Supported) | | | |
| First in Family to Attend College | 36% | | |
| % students who are traditionally underrepresented ⁴³ | 62% | | |
| % of undergrads who were Pell Grant recipients ⁴⁴ | 58% | | |
| % of students who live on campus ⁴⁵ | 4% | | |
| % undergrads who are in a fraternity or sorority ⁴⁶ | 8-10% | | |
| 4-year graduation rate for first-time FT freshmen ⁴⁷ | 27.8% | | |
| State-Supported (23,929 students) | | Self-Supported (73 students) | |
| Average Age | 23 | Average Age | 35 |
| Sex ⁴⁸ | 60% F; 40% M | Sex ⁴⁹ | 51%F; 49% M |
| First in Family to Attend College | 36% | First in Family to Attend College | 37% |
| % traditionally underrepresented ⁵⁰ | 62% | % traditionally underrepresented ⁵¹ | 51% |
| Instructional Faculty ⁵² | | | |
| Total # of faculty | 1,447 | | |
| Tenure-track | 40.8% | | |
| Lecturer | 59.2% | | |
| % full-time ⁵³ | 56.21% | | |
| % part-time | 43.79% | | |

⁴² *Id.*, except where noted otherwise. This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

⁴³ For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

⁴⁴ 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.

⁴⁵ 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>

⁴⁶ See <https://studentaffairs.fresnostate.edu/studentinvolvement/fraternity-sorority-life/faq.html#:~:text=What's%20the%20percentage%20of%20Fresno,of%20recruitment%2C%20graduation%2C%20etc.> (last visited May 25, 2023).

⁴⁷ California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with Cal State Fresno State 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 CSUF during the Fall 2018 (most recent complete 4-year term available).

⁴⁸ Data does not capture number of students who do not identify on the sex/gender binary.

⁴⁹ *Id.*

⁵⁰ For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

⁵¹ *Id.*

⁵² California State University, CSU Faculty, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-faculty>, except where noted otherwise.

⁵³ 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 ⁵⁴ |
| Staff⁵⁵ | |
| Total # of staff | 983 |
| % full-time | 98.27% |
| % part-time | %1.73% |
| Collective Bargaining Units | |
| 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) |
| Athletics⁵⁶ | |
| NCAA Division | I |
| NCAA Conference | Mountain West ⁵⁷ |
| Number of sponsored sports for '22-'23 academic year | 18 |
| Number of student athletes ⁵⁸ | 432 |

⁵⁴ Cal State Fresno State Academic Senate. See <https://academics.fresnostate.edu/senate/>

⁵⁵ 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.

⁵⁶ NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=96>, except where noted otherwise.

⁵⁷ All sports are in the Mountain West Conference except Women’s Equestrian, which is part of the Big 12 Conference.

⁵⁸ See U.S. Department of Education, Equity in Athletics Data Analysis, at <https://ope.ed.gov/athletics/#/>, data for California State University Fresno State. 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 1,055⁵⁹ responses to the survey from Fresno State students, faculty, staff, and administrators as follows:

| Constituents | Total Responses |
|--------------------------|-----------------|
| Undergraduate Student | 408 |
| Graduate Student | 109 |
| Administrator or Manager | 72 |
| Staff | 271 |
| Faculty | 224 |
| Other | 37 |

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:

- Concerns about physical safety. Survey respondents shared that they felt unsafe at night as a result of a lack of police presence, insufficient lighting, and unsafe walking conditions caused by construction on campus. A number of survey respondents indicated that there was inadequate building security, allowing for non-students and strangers to access campus buildings.
- Concerns about shootings. A number of survey respondents noted that recent increases in mass shootings and active shooter events on college campuses have made them concerned that the university does not have adequate exits within classrooms and has not prepared stakeholders for active shooter events.
- Disability accommodations. Survey respondents noted that the university is not inclusive on the basis of disability for all students. Specifically, deaf, physically disabled, and neurodivergent students expressed feeling as though campus was not inclusive.

⁵⁹ Some survey respondents identified as belonging to multiple constituencies; hence, the number listed here is smaller than the sum total in the chart below.

- Bias based on politics or race. Across all survey responses, there were a significant number of responses by students, faculty, and staff indicating anger or resentment at what they perceived to be “anti-white” or “anti-conservative” bias.
- Criticism of tenure and unionization. Across all survey responses, stakeholders expressed skepticism about the role that tenure and unionization play in promoting racial inequality, and contributing to the university’s failure to appropriately respond to incidents of bias or harassment.
- Insufficient sanctions and remedies. Survey respondents who participated in or were aware of investigations into harassment or misconduct expressed that the consequences for this misconduct were inadequate, and that resentments within the departments following investigations caused issues with workplace climate and retention.
- Title IX increased visibility on campus. Students, faculty, and staff requested greater visibility as to which resources are available to them through the Title IX office as well as transparency regarding procedure.
- Concerns about retaliation. Many survey respondents indicated that they were concerned about retaliation, particularly when they complained about the conduct of a superior or a tenured employee. Similarly, many expressed distrust that their complaints would be resolved fairly and without bias toward those with more power or influence.
- Distrust in Fresno State and the CSU. Survey respondents expressed distrust in the institution following the matter with the former Chancellor of the CSU and VP of Student Affairs at Fresno State, noting that this increased their fear of retaliation and concern that Title IX matters were concealed.
- Bias related to sexual orientation, gender identity or gender expression. LGBTQIA+ survey respondents stated that they experienced bullying or harassment, with some saying that they did not believe the Title IX office could help them without “outing” them to their families.

Appendix III Title IX Metrics (Title IX Annual Report)

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

As part of our review of the Title IX program at Fresno State University, we reviewed the University's annual Title IX reports for years 2019-2020 through 2021-2022. These annual reports are posted online on [Fresno State's Title IX Office website](#). 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 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. 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

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. Fresno State verified the accuracy of the 2021-2022 annual Title IX report via email on April 28, 2023. Fresno State indicated that, of the 30 matters open as of June 30, 2022, 8 were investigated with some of the matters still being open due to appeal or other issues.

Finally, we recognize the significant impact of the global pandemic on colleges and universities across the country, including Fresno State. 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 (2019-2020 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

| | 2019-2020 | 2020-2021 | 2021-2022 |
|---|-----------|-----------|------------|
| Reports of Sexual Misconduct/Sexual Assault | 44 | 24 | 39 |
| Reports of Dating/Domestic Violence | 11 | 17 | 20 |
| Reports of Stalking | 20 | 7 | 13 |
| Sexual Exploitation* | - | - | 1 |
| Sexual Harassment* | - | - | 63 |
| Total # of Reports in Above Categories | 75 | 48 | 136 |

B. Respondents' Roles⁶⁰

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.

| | 2019-2020 | 2020-2021 | 2021-2022 |
|--|-----------|-----------|------------|
| Reports in which the Respondent is a student | 28 | 12 | 64 |
| Reports in which the Respondent is an employee | 3 | 1 | 24 |
| Reports in which the Respondent is a third-party | 11 | 12 | 20 |
| Reports in which the Respondent is unknown | 33 | 23 | 0 |
| Reports in which the Respondent is unidentified | | | 25 |
| Total # of Reports in Above Categories | 75 | 48 | 136 |

⁶⁰ Respondent Role totals may differ from Reported Conduct totals due to multiple allegations for one Respondent.

C. Case Outcomes⁶¹

The below data reflect the collective outcomes of reports to the Title IX Office.⁶²

| | 2019-2020 | 2020-2021 | 2021-2022 |
|--|-----------|-----------|-----------|
| Reports in which the Complainant did not respond to outreach and there was insufficient information to move forward | 61 | 25 | 30 |
| Reports in which the Complainant’s identity was unknown to the Title IX Office | 0 | 0 | 1 |
| Reports in which the Complainant requested supportive measures or resources only | 0 | 13 | 63 |
| Reports that resulted in other outcomes (except formal investigation) | 10 | 8 | 11 |
| Reports that resulted in a formal investigation* | 0 | 5 | 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. | | | |

⁶¹ 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.

⁶² 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.