

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

---

California State University, Monterey Bay

## The Institutional Response Group

Gina Maisto Smith, Esq.

Leslie Gomez, Esq.

Adam Shapiro, Esq.



July 17, 2023

**Table of Contents**

	<b>Page</b>
I. Introduction.....	1
II. Overview of Engagement .....	2
III. Summary of Findings and Recommendations.....	4
IV. Title IX/DHR Office.....	7
A. Infrastructure .....	7
B. Visibility and Community Awareness.....	8
C. Website .....	9
D. Reporting Options.....	10
E. Case Processing.....	11
F. Community Feedback about Title IX/DHR Office.....	13
V. Core Title IX and Related Requirements .....	15
A. Title IX Coordinator .....	16
B. Notice of Non-Discrimination .....	20
C. Grievance Procedures .....	21
VI. Campus Coordination .....	23
A. University Police Department .....	24
B. Student Conduct .....	24
C. Housing and Residential Life .....	25
D. Faculty Affairs/Academic Affairs.....	25
E. Human Resources .....	25
F. Clery Act Responsibilities .....	26
VII. Campus Resources for Students and Employees .....	26
A. Confidential Advocate.....	26
B. Respondent Support .....	27
C. Counseling and Health Services .....	28
D. Ombuds.....	29
E. Additional Resources for Students.....	29
F. Additional Resources for Employees .....	30
VIII. Prevention, Education, Professional Development, Training, and Awareness .....	30
IX. Other Conduct of Concern.....	33
X. Recommendations.....	35

A. Infrastructure and Resources.....	36
B. Strengthening Internal Protocols.....	37
C. Communications .....	41
D. Prevention, Education, Professional Development, Training, and Awareness.....	43
E. Responding to Other Conduct of Concern.....	45
Appendix I.....	47
Appendix II.....	50
Appendix III.....	53

## I. Introduction

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

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

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

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

---

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

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

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

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

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

CSU Monterey Bay is located in Seaside, California. It has a student population of approximately 7,000, 41% of whom live on campus, and a workforce of approximately 1,000 staff and faculty. An overview of the university's metrics and demographics is included in Appendix I.

## **II. Overview of Engagement**

As outlined in the Systemwide Report, our assessment included a review of written documents, as well as interviews with university administrators, students, faculty, and staff, on each campus. Information gathered in our interviews is presented without personal attribution in order to ensure that administrators, students, faculty, and staff could participate openly in the assessment without fear of retaliation or other concerns that might inhibit candor. Relevant de-identified and aggregated information from the interviews is set forth in each of our reports, and Cozen O'Connor has maintained notes of each

interview as attorney work product within our confidential files; these files will not be shared with the CSU.

With respect to CSU Monterey Bay, Cozen O'Connor conducted a three-day campus visit from December 6 to 8, 2022. We also held multiple additional follow-up meetings via Zoom. In total, Cozen O'Connor conducted 20 meetings with 23 administrators and other key campus partners, some of whom we spoke with on multiple occasions. These meetings included interviews with the following individuals and departments (identified by role):

- University President
- Title IX / Discrimination, Harassment & Retaliation Office (Title IX/DHR Office) and Clery
  - Former Senior Director for Title IX, DHR and Clery
  - Interim Senior Director for Title IX and DHR
  - Title IX Training & Support Specialist and Clery Program Specialist
- Student Affairs
  - Interim Vice President of Student Affairs
  - Associate Vice President for Student Affairs and Dean of Students
  - Student Conduct Administrator
- Student Housing and Residential Life
  - Director
  - Associate Director
- Associate Vice President for Inclusive Excellence and Chief Diversity Officer
- Otter Cross Cultural Center (OC3) and Affinity Groups
  - Director, OC3
  - Director of Inclusive Excellence
- Athletics Director
- Provost
- Human Resources
  - Interim Associate Vice President for Human Resources
  - Director of Employee and Labor Relations, Compliance, and Leave Programs
- Health and Wellness Services
  - Campus Advocate (Monterey Rape Crisis Center)
  - Senior Director, Health and Wellness Services
  - Health Promotion and Prevention Manager
  - Counselor
- University Police
  - Chief of Police
  - Sergeant
- University Counsel

In addition to these meetings with administrators and campus partners, Cozen O'Connor sought feedback from students, staff, and faculty through a variety of modalities, including in-person engagement, through

a systemwide survey, through a dedicated email address ([calstatereview@cozen.com](mailto:calstatereview@cozen.com)), as well as through individual meetings via Zoom.

During our December 2022 campus visit, Cozen O'Connor met with other campus constituents. We held an open forum for faculty members (six attendees, including representatives of the Faculty Senate), an open forum for staff (15 attendees), and a meeting with the President of the Student Government (Associated Students).

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 687 responses to the survey from Monterey Bay students, faculty, staff, and administrators. A summary of the survey response rate and data is included in Appendix II.

### **III. Summary of Findings and Recommendations**

President Vanya Quiñones assumed the university presidency on August 15, 2022, following the departure of former President Eduardo Ochoa. President Quiñones inherited a Title IX/Discrimination, Harassment & Retaliation Office (Title IX/DHR Office) that was, in many ways, broken and nonfunctional and has prioritized institutional efforts to address these deficiencies. Today, the Title IX and DHR programs at Monterey Bay are in a state of flux, although the Title IX/DHR Office is improving under new interim leadership and the university has prioritized rebuilding the Office to better serve the community.<sup>2</sup>

---

<sup>2</sup> Unless otherwise noted, the information in this report is based on the feedback we received and the observations we made during our December 2022 campus visit and in subsequent follow-up meetings. We recognize that significant change is now underway and that not all of the feedback and observations are still applicable today. However, the feedback and observations are nonetheless vital as they reflect the foundational "starting point" of where the Title IX/DHR programs have been and how they have been perceived by the community, which, in turn, informs the path forward.

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

**Rebuilding and Raising the Awareness and Visibility of the Title IX/DHR Office:** At the time of our campus visit, the Title IX/DHR Office was not functional and was not performing many of the core duties with which the Office was tasked. For a variety of reasons, including inadequate resourcing and reported routine and extended absences, the Title IX/DHR Office had lacked stability and visibility. Under new leadership and with the commitment of the university's new President, the Title IX/DHR Office is positioned to rebuild the Office to better serve the campus community. As an initial step in doing so, we recommend that the Office take steps to increase its awareness and visibility. Most notably, we recommend that the Title IX/DHR Office revamp its website, which is antiquated and not regularly updated. Additionally, we recommend that the university launch an awareness campaign to educate the university about the Office, its purpose and function, and resources available through the Office. We also recommend that the Office work to strengthen its internal processes by conducting a mapping exercise of its processes to identify efficiencies and inefficiencies, and take other measures that would strengthen its processes such as formally separating its intake/outreach functions from its investigative functions.

**Strengthening Collaboration and Coordination with Partner Offices:** At the time of our campus visit, the effectiveness of the Title IX/DHR Office was hampered by poor working relationships with certain partner offices due to interpersonal strife. As a result of the strained relationships, partner offices were creating workarounds to avoid the Title IX/DHR Office and minimize conflict, which impeded effective communication and coordination. Under new leadership, the Title IX/DHR Office must work to repair these professional relationships and we recommend formalizing the working collaboration across university offices. Specifically, we recommend that Monterey Bay create a multidisciplinary team that would formalize coordination, information sharing, and process.

**Prevention and Education:** Given staffing and resource challenges, Monterey Bay’s approach to prevention and education, the responsibility for which is owned primarily by the Campus Advocate, is *ad hoc*, rather than strategic, and prevention and education programming is minimal. We recommend that Monterey Bay build a formal prevention and education program, including a dedicated prevention coordinator and a campus Prevention and Education Oversight Committee, to address issues related to discrimination and harassment, including sexual and gender-based harassment and violence.

**Responding to *Other Conduct of Concern*:**<sup>3</sup> As with other universities, CSU Monterey Bay struggles with responding to conduct issues that do not rise to the level of a policy or legal violation, but nonetheless are disruptive to the living, learning, and working environment. Monterey Bay has no consistent and formalized mechanism for navigating these behaviors. As a result, the university triages this conduct in an *ad hoc* manner, leading to inconsistent responses, which have led to perceptions by students, staff, and faculty that there is a lack of accountability. We recommend that Monterey Bay work closely with the Chancellor’s Office to develop a formal process to address reports of *other conduct of concern*. In developing this formal process, attention should be paid to strengthening and expanding competencies regarding conflict resolution, restorative justice, and other remedial responses; creating a centralized and anonymous reporting mechanism at the university level; and establishing a formal triage and review process that ensures appropriate analysis, documentation, and tracking.

---

<sup>3</sup> We use the term *other conduct of concern* to refer to conduct that may not rise to the level of protected status discrimination or harassment, but may nonetheless violate other university policies or be disruptive to the learning, living, or working environment. This includes, for example:

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

#### IV. Title IX/DHR Office

##### A. Infrastructure

The Title IX/DHR Office reports to the interim Vice President of Student Affairs.<sup>4</sup> The Title IX/DHR Office's portfolio includes administering the university's Title IX and DHR programs, and last year came to include the university's Clery compliance program as well.

As presently constituted, the Title IX/DHR Office consists [of two staff members](#): the interim Title IX Coordinator/DHR Administrator and the Training and Support Specialist. The Training and Support Specialist coordinates department programming efforts, including collaborating with campus partners and representing the office for tabling, and oversees office administration. She was also recently given the role of Clery Program Specialist.

The interim Title IX Coordinator/DHR Administrator is new to the role, having started in the Office in October 2022 in an Associate Director role under the former Title IX Coordinator/DHR Administrator. She assumed the interim role in February 2023, following the departure of the former Title IX Coordinator/DHR Administrator. The former Title IX Coordinator/DHR Administrator had served in that role since 2014 and, as such, had been one of the longest-serving Title IX Coordinators in the CSU system. The Training and Support Specialist has also served in her role since 2014, so there is some continuity and retention of institutional memory within the Title IX/DHR Office. As noted above, a search is underway to hire a permanent Title IX Coordinator/DHR Administrator, and the university has recently contracted with an external consultant to provide additional bandwidth for the Title IX/DHR Office in the meantime.

The challenges in the university's Title IX/DHR function have been compounded by a lack of resourcing for the TIX/DHR Office. Since COVID, and until October 2022, when the university hired the Associate Director for Title IX and DHR (now the interim Title IX Coordinator/DHR Administrator), the former Title IX Coordinator/DHR Administrator was effectively an "office of one." While the former Title IX Coordinator had a long-time employee available for administrative support and to assist with trainings and programming, there was no additional full time employee who could conduct investigations and/or

---

<sup>4</sup> In part because the Vice President of Student Affairs is serving in an interim capacity, President Quiñones announced her intention in December 2022 to move the Title IX and DHR reporting lines to the Associate Vice President for Inclusive Excellence and Chief Diversity Officer. Following the departure of the former Title IX Coordinator/DHR Administrator in February 2023, President Quiñones [reversed this decision](#) for the time being.

function as a deputy. In addition, the university's former Clery Coordinator left the university in August 2022, and the Title IX/DHR Office absorbed responsibility for compliance with the Clery Act, thereby exacerbating existing challenges to the workload and capacity of the Office. In part because of these resource challenges, we also learned that documentation and recordkeeping within the Title IX/DHR Office was inconsistent and incomplete, and that little was being accomplished in terms of prevention and education programming.

We note that since our campus visit, the Title IX/DHR Office has begun to undergo significant change, including new leadership since February 2023. Since that time, the former Associate Director for Title IX and DHR has served in the role of interim Title IX Coordinator/DHR Administrator. The feedback from campus partners regarding the interim has been consistently positive, with individuals impressed with her responsiveness and potential. A search is underway for a permanent Title IX Coordinator/DHR Administrator. In the interim, the university has contracted with an external consultant to provide additional resources and bandwidth for the Title IX/DHR Office. Additionally, the university recently hired a campus Ombudsperson who will begin in September 2023.

The Title IX/DHR Office uses Maxient as its case management system. However, at the time of our campus visit, we learned that Maxient was not being used consistently. The former Title IX Coordinator/DHR Administrator explained that all case-related documents and communications "should be" in Maxient, but that they were not in reality due to resource constraints. The former Title IX Coordinator said that information related to reports and cases may be in Maxient, her own email inbox, or in the email inbox of her colleagues.

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

## **B. Visibility and Community Awareness**

Based on feedback we received from our campus visit, the Title IX/DHR Office has traditionally been utilized by employees more so than students. The fact that the Title IX/DHR Office did not have any completed Title IX or DHR investigations during the 2020-21 and 2021-22 academic years may reflect concerns about the Office's visibility and awareness among the campus community. Although we heard

from some that the reason for this lack of investigations was that complainants have tended to prefer receiving supportive measures only and were deterred from pursuing investigations due to the formality of the federal Title IX regulations, we also heard from others that community members, predominantly students, had “no idea” what the Office could do and where it was located. We heard and observed that, in part because the former Title IX Coordinator/DHR Administrator was working part-time and/or was on leave at times, other efforts that would naturally raise the level of visibility and awareness for the Office (such as trainings and educational programming, as well as updates to the Office’s website) were not happening as often as they did in the past.

### C. Website

The Title IX/DHR Office’s website contains useful information, but is cluttered and not user-friendly. This observation was echoed by several administrators, who referred to the website as “a hot mess.” The former Title IX Coordinator/DHR Administrator indicated that revamping the website had been on her to-do list for a while but that she had not yet been able to undertake the exercise. As a strength, we note that the website reiterates in several locations that supportive measures are available through the Title IX/DHR Office regardless of whether an individual wishes to pursue a formal investigation. We also note, as described above, that a link to the online reporting form for Title IX and DHR complaints is available on almost all university websites.

The website consists of:

- A [landing page](#) with a statement of principles from the CSU, a link to the CSU Nondiscrimination Policy, contact information for the U.S. Department of Education’s Office for Civil Rights, and information about the availability of supportive measures.
- A [Staff](#) page that lists the Office’s two current employees, their contact information, and the trainings they have taken.
- A Title IX [General Information](#) page that has a link to a [Campus Resources & Reporting Options](#) info sheet, the Notice of Non-discrimination on the Basis of Gender or Sex, contact information for the campus Title IX Coordinator/DHR Administrator and the U.S. Department of Education’s Office for Civil Rights, and information (including contact information) regarding reporting options and available resources.
- A Title IX [Investigation Process](#) page that describes CSU’s three resolution tracks.
- A Title IX [Definitions](#) page that contains defined terms from the CSU Nondiscrimination Policy
- A Title IX [Confidentiality](#) page that describes confidentiality, confidential resources, and responsible employee reporting obligations.
- A [Programs](#) page that described the Title IX/DHR Office’s Ambassador Program.

- A Resources and Supportive Measures tab that has additional information including, a [Campus Resources](#) info sheet, a [Rights and Options](#) document, a sexual assault [Myths and Facts](#) page, a [Designated Reporter](#) info sheet, and a [Tips](#) page

As a general matter, the information on the website is text heavy, at times duplicative, and not always included under the tabs where a user would expect to find it. We identify opportunities to improve the website in the recommendations.

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

Reports of prohibited conduct based on protected status, including discrimination, harassment, and retaliation, may be made to the Title IX/DHR Office in person or via email, telephone, or an [online reporting form](#).<sup>5</sup> The online Maxient reporting form is accessible on the [landing page](#) of the Title IX/DHR Office's website. In contrast to most other CSU universities, a link to the online reporting form (as well as a link to the Title IX/DHR Office's website) is located at the footer of almost every CSU Monterey Bay webpage, which is a helpful mechanism to raise awareness and reduce potential barriers to reporting.<sup>6</sup>

Additionally, the [General Information tab](#) of the Title IX website has instructions for filing reports and has a link to a [Campus Resources & Reporting Options](#) document with additional information. The [Rights and Options tab](#) of the Title IX website also has a link to a different [Rights and Options](#) document. And the Campus Resource Sheet tab of the Title IX website has a link to yet another [Campus Resources document](#). We note that having three separate documents explaining available rights and options, on three separate webpages, might create confusion, and we recommend consolidating these documents into one single resource.

Reports can be made by a complainant directly or through third parties (e.g., responsible employees) in person, by phone, or via email. The online reporting form says that complainants may submit their report anonymously. It further explains that it is a general reporting form, and may get routed to one of several places, including the Title IX/DHR Office, the Behavioral Intervention Team, and the CARE team.

---

<sup>5</sup> The CSU System also publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

<sup>6</sup> We note that the Athletics website does not have a link to this online reporting tool.

## E. Case Processing

Upon receipt of any Title IX or DHR related report, the Title IX/DHR Office sends an outreach email to the complainant attaching a Campus Resources Sheet, offering to meet, and making clear that one need not file a complaint to receive supportive measures. The Campus Resources Sheet provides legally required information, and the outreach email to the complainant is supportive in tone. However, the outreach email template is very short and should be amended to include more information about available rights and options. To the extent the complainant does not respond, the Title IX/DHR Office makes two additional outreach attempts, each approximately two weeks apart (three outreach attempts in total). The former Title IX Coordinator reported that all outreach attempts are made by email.<sup>7</sup>

If the complainant responds, the Title IX/DHR Office schedules an intake meeting, where the Title IX Coordinator will provide an overview of available supportive measures, the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#), and potential resolution options, including informal resolution and formal investigation. The former Title IX Coordinator/DHR Administrator explained that her focus during these intake meetings was on available supportive measures and process, and that she purposely would ask complainants only “very broad” substantive questions (“was this sexual assault?” “was this stalking?”) so as to avoid the complainant from having to recount “triggering details.” The former Title IX Coordinator explained that she wanted to give complainants sufficient information about the process to “sleep on it” in terms of making a decision as to whether they wished to proceed with resolution.

Because of the limited staffing within the Title IX/DHR Office, outreach, intake, provision of supportive measures, and, if necessary, investigations, are all conducted by the same person (the Title IX Coordinator/DHR Administrator) if they are conducted in-house; some investigations are outsourced to the California Attorney General’s Office. Our recommendations include, depending on available resources, formally separating Title IX’s outreach/intake/supportive measures 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 its responsibility, in cases that

---

<sup>7</sup> The former Senior Director for Title IX, DHR and Clery said she would generally not close cases in Maxient or issue case closure notices to complainants, even where they have not responded, because she did not want to send the message to them that supportive measures were no longer available to them.

proceed to formal resolution, to conduct a neutral and impartial gathering of facts. We also recommend that, during intake, the individual conducting intake gather sufficient facts in order to assess safety risks and enable the university to respond accordingly and make informed decisions about appropriate supportive measures, leave, or emergency removal.

The steps following the initial 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/DHR Administrator following the initial meeting). As highlighted with asterisks on the Title IX/DHR Office's [website](#), complainants "can reach out for support services with Title IX/DHR without having to file for investigation." The overwhelming majority of reports to the Title IX/DHR Office involve the provision and oversight of supportive measures.

In the event the Title IX Coordinator/DHR Administrator determines that the allegations do not rise to the level of a potential policy violation, the complainant is referred to another office. The former Title IX Coordinator explained that, depending on the identity of the complainant and the nature of the conduct alleged, she conducted "warm handoff" referrals to various offices, including Student Conduct, Housing, and University Personnel (Human Resources).

In the event a complainant does not wish to proceed to formal resolution, the Title IX Coordinator/DHR Administrator nonetheless evaluates whether there are risk factors to the broader campus community (such as pattern evidence, use of weapons, etc.) such that it must nonetheless proceed to an investigation. The former Title IX Coordinator/DHR Administrator explained that she would check available databases (including Maxient and – because she routinely fell behind in filing documents to Maxient – her own email inbox) and reach out to other offices for available information in order to make this assessment.

Informal resolutions, at the request of the complainant, are handled by the Title IX Coordinator/DHR Administrator. The former Title IX Coordinator/DHR Administrator said she would conduct informal resolutions with the parties without first issuing a Notice of Allegations to the parties, because doing so was less "formal." She acknowledged that this process was inconsistent with the federal Title IX regulations and described it as a "mea culpa."

In the event a case were to proceed to a hearing, a pool of hearing officers is provided by the Chancellor's Office.

As noted above, at the time of our campus visit, administrators confirmed that there had been no Title IX or DHR investigations or hearings conducted in-house by the Title IX/DHR Office since the beginning of the COVID-19 pandemic. As explained to us by some, complainants overwhelmingly wanted supportive measures only.

Because there have been no recent completed investigations, we do not have access to data regarding the timeliness of investigations. We requested sample investigative reports to review, but we did not receive any as the Title IX/DHR Office did not complete any Title IX or DHR investigations during the 2020-21 and 2021-22 academic years.<sup>8</sup> As described below, however, some concerns were expressed to us by key campus partners and community members about the historical lack of responsiveness from the Title IX/DHR Office to incoming reports.

#### **F. Community Feedback about Title IX/DHR Office**

At the time of our campus visit, we consistently heard a negative perception of the Title IX/DHR Office from key campus partners, as well as community members. Individuals described the functioning of the Office as broken, and remarked that the Office was “not doing anything.” The main driver of this perception was their collective experience (either firsthand or secondhand) that the Title IX/DHR Office was slow in responding to communications or did not respond at all when concerns were reported to them.

Among the reasons cited for this perception was that the Title IX Coordinator/DHR Administrator had, for years, routinely been absent or working part-time due to a variety of personal circumstances and/or leaves of absence. We consistently heard about there being “a void” in terms of the functioning of the Title IX and DHR programs. We observed that this perception was consistent with the data, confirmed by university administrators, that during the 2020-21 and 2021-22 academic years, there were no Title IX or DHR investigations resolved by the Title IX/DHR Office. This perception was also consistent with feedback we received from administrators regarding a list of items that the Title IX/DHR Office had been planning to do, but had not initiated or completed (e.g., revamping the Office’s website, conducting more trainings, tracking reports more consistently, and improving their documentation/case management hygiene).

---

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

Individuals with whom we spoke reported that it was not uncommon for the Title IX/DHR Office not to acknowledge receipt of incoming reports, not to offer anything in the way of case progression updates, and not communicate regarding the final disposition of cases. One administrator reported that they “could name 10-15 students who did not get timely responses from the Office.” One staff member commented, “I don’t think people know where to go to report because people will email the Office and there’s no response.” Another administrator commented, “If something doesn’t rise to the level of a potential policy violation, why do I have to chase the Office for four months to get that answer? We are twisting in the wind; at least respond to my messages saying you received them!” Finally, one employee reported that years ago she received training to conduct a DHR investigation (due to short staffing within the Title IX/DHR Office), and she completed the investigation assigned to her within weeks but then it took almost one year for the Title IX/DHR Office to close the loop with the parties and inform them of the outcome.

Although we received positive feedback from some, based on firsthand and secondhand experience, that the Title IX/DHR Office treated them with respect, was trauma-informed, and utilized a supportive but professional tone in their interactions with parties, we also heard the perspective that the “student experience” with the Title IX/DHR Office “has almost never been positive.” A common refrain was that students “don’t go to Title IX because it’s not worth it” and that students “distrust” the Title IX/DHR Office. This perspective was echoed by certain administrators who had a challenged relationship with the former Title IX Coordinator/DHR Administrator. We received consistent feedback, and observed ourselves, that the implementation of the Title IX and DHR functions at Monterey Bay was significantly impaired by challenges relating to interpersonal strife between key campus partners. Administrators and others reported that strained relationships and severe distrust existed between the Title IX/DHR Office and various other leaders from offices who routinely intersect with the Title IX/DHR Office, such as Student Life and Inclusive Excellence. These conflicts were not hidden; we heard during our campus visit that the situation was “oil and gasoline” and we observed that these conflicts were openly displayed. Most importantly, we observed that these ruptured interpersonal relationships were negatively impacting the ability of the Title IX/DHR Office to function as intended.

Rather than having open and respectful lines of communication among administrators, campus partners reported creating workarounds and “backdoors” for students to avoid them having to interact with the Title IX/DHR Office, and that were designed to minimize and avoid conflict. These backdoors included recommending that they go to the Care Team to access resources rather than try to access supportive

measures through the Office. University administrators were upfront with us about the toxic relationships that existed between administrators, and how that had negatively impacted students. Nonetheless, it is illustrative of the distrust of, and lack of faith in, the Title IX/DHR Office. These workarounds impeded effective coordination and collaboration, and reflected that key administrators had in some ways lost sight of the fact that their purpose was first and foremost to serve the students, staff, and faculty that comprise the Monterey Bay community.

We note that with the recent change of leadership in the Title IX/DHR Office, key campus partners have reported that the Title IX/DHR Office has been significantly more responsive to communications and reports, and that they were optimistic that trust and confidence in the Office could be restored over time.

## **V. Core Title IX and Related Requirements**

In evaluating legal compliance and effectiveness based on the observations described above, we reviewed Title IX's implementing regulations as the legal framework. Title IX's implementing regulations, amended most recently in May 2020, require that educational institutions (i) appoint a Title IX coordinator;<sup>9</sup> (ii) adopt grievance procedures that are prompt and equitable;<sup>10</sup> and (iii) publish a non-discrimination statement.<sup>11</sup> In the sections below, we describe our observations of the university's compliance with each of these core Title IX obligations. Although the implementing regulations and regulatory frameworks are not as prescriptive under other federal and state laws that address all other protected status discrimination, harassment, and retaliation,<sup>12</sup> we incorporate the Title IX framework as it relates to these core requirements, because they apply equally to DHR programs.

---

<sup>9</sup> 34 C.F.R. § 106.8(a).

<sup>10</sup> 34 C.F.R. § 106.8(b).

<sup>11</sup> 34 C.F.R. § 106.8(c).

<sup>12</sup> These include Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975. The implementing regulations for these statutes outline some requirements that are similar or identical to certain of the "core Title IX obligations." For instance, most of the regulatory frameworks require a notice of non-discrimination. See 34 C.F.R. § 100.6(d) (Title VI), 34 C.F.R. § 104.8 (Section 504), and 34 C.F.R. § 110.25 (Age Discrimination Act), and 28 C.F.R. § 35.106 (ADA). Furthermore, the implementing regulations for the Age Discrimination Act closely mirror the core Title IX obligations in that they require educational institutions to: (i) designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities, including investigation of complaints; (ii) notify beneficiaries of information regarding the regulations and the contact information for the responsible employee;

### A. Title IX Coordinator

Under the current Title IX regulations, every educational institution that receives federal funding must designate at least one employee, known as the Title IX Coordinator, to coordinate the institution's Title IX compliance efforts.<sup>13</sup> In this role, the Title IX Coordinator is designated as the university official responsible for receiving and coordinating reports of sex discrimination, including sexual harassment, made by any person.<sup>14</sup> 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.<sup>15</sup> The Title IX regulations detail the responsibilities of the Title IX Coordinator, which include, among other things:

1. Receiving reports and written complaints;<sup>16</sup>
2. Coordinating the effective implementation of supportive measures;<sup>17</sup>
3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;<sup>18</sup>
4. Considering the wishes of the complainant with respect to supportive measures, including explaining the process for filing a formal complaint;<sup>19</sup>

---

and (iii) adopt and publish grievance procedures providing for prompt and equitable resolution of complaints. 34 C.F.R. § 110.25.

<sup>13</sup> 34 C.F.R. § 106.8(a).

<sup>14</sup> *Id.*

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

<sup>16</sup> 34 C.F.R. § 106.30(a) (defining "actual knowledge" as including notice to the Title IX Coordinator).

<sup>17</sup> *Id.*

<sup>18</sup> 34 C.F.R. § 106.44(a).

<sup>19</sup> *Id.*

5. Attending appropriate training;<sup>20</sup>
6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;<sup>21</sup>
7. Overseeing the prompt and equitable nature of any investigation or resolution;<sup>22</sup> and
8. Overseeing effective implementation of any remedies issued in connection with the grievance process.<sup>23</sup>

Under the Title IX regulations, guidance documents issued by the U.S. Department of Education, Office for Civil Rights (OCR), and effective practices, the Title IX Coordinator should be sufficiently positioned within the institutional organizational structure, sufficiently resourced to carry out care and compliance responsibilities, sufficiently trained and experienced, and free from conflicts of interest.<sup>24</sup> 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

---

<sup>20</sup> 34 C.F.R. 106.45(b)(1)(iii) ("A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. § 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias.")

<sup>21</sup> 34 C.F.R. 106.45(b)(1)(iii).

<sup>22</sup> 34 C.F.R. § 106.8(a) (charging the Title IX Coordinator with "coordinating [institutional] efforts to comply" with Title IX).

<sup>23</sup> 34 C.F.R. § 106.8(a); 34 C.F.R. § 106.45(b)(7)(iv).

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

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.”<sup>25</sup> Finally, Attachment B recommends that all campus Title IX Coordinators “be someone without other institutional responsibilities that could create a conflict of interest (e.g., someone serving as University Counsel or as a disciplinary decision maker)” and that they report to a supervisor who is a Vice President or higher.

In addition to reviewing these written guidelines applicable to the system as a whole, Cozen O'Connor evaluated whether, in practice, each campus Title IX Coordinator/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.

The Interim Title IX Coordinator/DHR Administrator has served in that role since February 2023. Prior to assuming this interim role, and beginning in October 2022, the Interim Title IX Coordinator/DHR Administrator was the Associate Director for Title IX and DHR under the former Title IX Coordinator/DHR Administrator, who had served in that role since 2014. The contact information for the Interim Title IX Coordinator/DHR Administrator – as well as contact information for the Title IX/DHR Office more broadly – is displayed on the university’s [Title IX website](#).

In terms of whether the Title IX Coordinator is sufficiently positioned within the organization to succeed, we observed and received feedback that the historical structural reporting line for the Title IX Coordinator was a source of concern. At the time of our campus visit, the former Title IX Coordinator/DHR Administrator was reporting to the Interim Vice President of Student Affairs (VPSA). However, there were open questions expressed to us about where and to whom the Title IX and DHR functions ought to be

---

<sup>25</sup> The [Nondiscrimination Policy](#) similarly defines campus DHR Administrators as “the [MPP] Employee at each campus who is designated to administer this Nondiscrimination Policy and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation.” The Nondiscrimination Policy states that the DHR Administrator “may delegate tasks to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority.”

reporting because of the interim nature of the VPSA's role and his general lack of subject matter expertise in Title IX and DHR.<sup>26</sup>

In terms of resources, the Title IX and DHR functions are under-resourced. Since the early stages of the COVID-19 pandemic, the former Title IX Coordinator/DHR Administrator effectively served as an "office of one" (herself plus an administrative support employee), until the hiring of the current Interim Title IX Coordinator/DHR Administrator in October 2022. With the departure of the former Title IX Coordinator/DHR Administrator, the Title IX/DHR Office again has only two employees – the interim Coordinator/Administrator and a Training & Support Specialist, who serves in the same administrative role. Moreover, in addition to the Title IX/DHR Office's responsibilities for implementing the university's Title IX and DHR programs, the Office is also responsible for implementing the university's Clery Act program. Given the complexity and requirements associated with these portfolios, the Title IX/DHR Office is insufficiently staffed. We note that a search is underway for a permanent Title IX Coordinator/DHR Administrator (as well as an additional Clery officer), and the university has contracted with an external consultant to provide additional resources and bandwidth for the Title IX/DHR Office in the meantime.

In terms of training, we observed that the current Title IX Coordinator/DHR Administrator, while new to higher education, has fluency and competence with respect to Title IX and DHR concepts and processes.

Finally, Monterey Bay's Title IX/DHR Office houses both the Title IX and DHR functions and we observed no obvious conflicts of interest in terms of the Title IX Coordinator/DHR Administrator role.

---

<sup>26</sup> As noted above, in part because the Vice President of Student Affairs is serving in an interim capacity, President Quiñones announced her intention in December 2022 to move the Title IX and DHR reporting lines to the Associate Vice President for Inclusive Excellence and Chief Diversity Officer. However, following the departure of the former Title IX Coordinator/DHR Administrator in February 2023, President Quiñones reversed this decision for the time being.

## B. Notice of Non-Discrimination

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

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

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

Monterey Bay has a [Notice of Non-Discrimination on the Basis of Gender or Sex](#), which, consistent with the Title IX regulations, states that the university does not discriminate on the basis of gender or sexual orientation in its education programs and activities, including employment and admissions. According to the Notice, this prohibition on discrimination extends to sexual harassment, sexual misconduct, sexual exploitation, dating and domestic violence, and stalking. The Notice provides the required contact information, for the campus Title IX Coordinator and OCR, to individuals seeking to report sex discrimination.

Monterey Bay's Notice of Non-Discrimination on the Basis of Gender or Sex is accessible on the university [Title IX website](#). However, there is no direct link to the Notice on most other university webpages, including the webpages for Admissions, Athletics, and Student Life.

---

<sup>27</sup> 34 C.F.R. § 106.8(b).

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

<sup>29</sup> 34 C.F.R. § 106.8(b)(2).

Separately, Monterey Bay does not consistently publish on its websites, including Title IX's website, a broader Notice of Non-Discrimination on the basis of protected statuses other than sex and gender.<sup>30</sup> The Title IX website provides a link to the Systemwide Nondiscrimination Policy, and contains an ["inclusive community" statement](#) that reads, "We embrace and encourage our community differences in Age, Disability, Race or Ethnicity, Gender, Gender Identity or Expression, Nationality, Religion, Sexual Orientation, Genetic Information, 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 CSU prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such behavior violates university policy and may also violate state or federal law." Publishing a broader Notice of Non-discrimination, 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, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and other relevant federal and state laws prohibiting protected status discrimination, harassment, and retaliation.

### C. Grievance Procedures

Finally, the Title IX regulations require educational institutions to "adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited [as sex discrimination under Title IX] and a grievance process that complies with [34 C.F.R. § 106.45] for formal complaints . . . ." <sup>31</sup> The regulations further require educational institutions to provide notice of the grievance procedures and process, including how to

---

<sup>30</sup> Based on the results of a Google search, Monterey Bay has an "archived catalog" of regulations and policies from the 2019-20 academic year. This [catalog](#) contains a broader "Nondiscrimination Policy and Complaint Procedures" based on age, genetic information, marital status, medical condition, nationality, race or ethnicity (including color or ancestry), religion or religious creed, and veteran or military status.

Additionally, [the admissions webpage for the College of Health Sciences and Human Services](#) contains a written non-discrimination policy. And the Athletics website contains a [DEI Mission Statement](#) that reads, "CSUMB Athletics seeks to provide a safe, equitable and inclusive environment for all, regardless of race, gender identity, sexual orientation, spirituality, socioeconomic background, disability or any other defining characteristic . . . . Discrimination of any kind or intolerance of any level has no place within CSUMB Athletics, whether in competition, in the classroom, in the locker room or in the stands."

<sup>31</sup> 34 C.F.R. § 106.8(c).

report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond to such a report or complaint.<sup>32</sup>

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

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

---

<sup>32</sup> *Id.*

The CSU's prohibition against certain consensual relationships is embedded within the Nondiscrimination Policy.<sup>33</sup> 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.

## **VI. Campus Coordination**

As described above, administrators and key campus partners reported that there was infrastructure in place to coordinate across offices about Title IX and DHR cases, but that the infrastructure was not operating in a functional way.

With respect to student cases, there is a Student Case Management Team, which is a multidisciplinary team that collaborates and shares information about new and open student cases, and coordinates efforts to offer support and resources to affected individuals. The members of the team include representatives from the Title IX/DHR Office, Student Housing and Residential Life, Student Conduct, University Police Department, and Athletics. However, it was reported during our campus visit that the Case Management Team had not been meeting due to the COVID-19 pandemic. It was also reported that the frequency of these meetings was sporadic even after the return to in-person learning, in part because the former Title IX Coordinator/DHR Administrator had been on leave and was working a part-time schedule. We observed palpable frustration when we met with this group.

With respect to staff and faculty cases, it was reported that the former Title IX Coordinator/DHR Administrator had routine and frequent communications with the former Associate Vice President for University Personnel (Human Resources). However, it was also reported that information about cases (especially faculty cases) was not routinely shared by the former Associate Vice President for University Personnel other members of the Human Resources office.

---

<sup>33</sup> Under Article II, Section F of the [Nondiscrimination Policy](#), a "Prohibited Consensual Relationship" is defined as "a consensual sexual or romantic relationship between an Employee and any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority."

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

The [University Police Department](#) (UPD) at the time of our campus visit consisted of 18 sworn police officers. UPD is led by the Chief of Police, and has a [staff](#) includes a Deputy Chief, Sergeants, Commander, Corporal, and Officers, as well as other office [positions](#) including an administrative analyst, records specialists, an emergency manager, and a parking manager.

UPD investigates reports of criminal sexual or gender-based violence that are reported to have occurred on-campus, which includes fact-gathering, and evidence collection. UPD has one full-time sexual assault investigator to handle this work. UPD officers are trained to provide complainants with information related to medical care and available resources, and UPD is in regular contact with the Title IX/DHR Office and Campus Advocate. Under its interpretation of California Penal Code 293, UPD does not include a complainant's name in reports to the Title IX/DHR Office where the complainant has requested that their name not be part of the UPD public records.

UPD's website contains information regarding [Sexual Assault Risk Reduction and Bystander Intervention](#). That webpage lists various resources for complainants, including the Campus Advocate, but does not list contact information for the Title IX/DHR Office.

The Chief of Police reports to the Vice President for Administration and Finance.

### **B. Student Conduct**

The Office of [Student Conduct](#) 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. Student Conduct also administers the Student Code of Conduct process in order support a safe and inclusive environment for all students. The Student Conduct Administrator is responsible for managing the university's judicial processes for students and recommending disciplinary sanctions when appropriate. The Office responds to a variety of incidents that may include behavioral misconduct, academic dishonesty, and concerning student behavior. Incidents of student misconduct may include issues with alcohol, drugs, theft, weapons, violence, harassment, sexual misconduct, hazing, or other violations that do not rise to the level of a Title IX or DHR violation. The Office refers matters that relate to Title IX/DHR to the Title IX/DHR Office, and the Title IX/DHR Office refers matters that do not rise to the level of a potential Title IX/DHR violation to Student Conduct. The Office consists only of the Student Conduct Administrator.

### **C. Housing and Residential Life**

[Student Housing and Residential Life](#) at CSU Monterey Bay is led by the Director of Student Housing & Residential Life, as well as the Associate Director. Pursuant to university [policy](#), all full-time first year students and sophomores that do not live in the tri-county area are required to live in on campus housing. Housing capacity is approximately 3,800 students. During the fall 2022 semester, approximately 41% of the student body lived on campus.

Upon receipt of a report of conduct that may violate the Nondiscrimination Policy, Housing staff complete and submit an online report directly to the Title IX/DHR Office. During our campus visit, administrators expressed a desire for a formal mapping of Title IX/DHR processes with the Title IX/DHR Office to ensure coordination and understanding of reporting and jurisdictional issues.

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

The [Division of Academic Affairs](#) at CSU Monterey Bay is led by the University Provost. The Division oversees all of the University's Colleges, as well as academic and centralized scheduling; the Academic Senate; Admissions; the Center for Teaching, Learning & Assessment; Institutional Assessment & Research; the Library; the Office of Graduate Studies & Research; the Registrar's Office; the Sponsored Programs Office; and the Undergraduate Research Opportunities Center.

### **E. Human Resources**

The [Human Resources Office](#), formerly known as University Personnel, provides services relating to benefits, compensation, employment, training, and other related functions. The Department also oversees the University's [Employee & Labor Relations](#) function, both for staff and faculty. This work entails serving as a liaison between university management and campus union representatives for issues that arise under the Collective Bargaining Agreements. It also entails analyzing complaints and grievances as they arise for early intervention.

Human Resources reports to the Vice President for Administration and Finance. The Office is led by the Interim Associate Vice President for Human Resources, and the employee relations function is led by the Director of Employee & Labor Relations, Compliance, and Leave Programs.

## **F. Clery Act Responsibilities**

CSU Monterey Bay's Clery Act responsibilities are currently overseen by the Title IX/DHR Office. In August 2022, the university's longtime Clery Director (who had served in a Clery oversight role since 2014) left the university. At that time, the former Title IX Coordinator/DHR Administrator assumed responsibility for the Clery compliance function, which includes the preparation of the university's [Annual Security Report](#). She delegated day-to-day responsibilities for Clery compliance to the Title IX/DHR Office's Training and Support Specialist (who also now has the title of Clery Program Specialist). At the time of our campus visit, the Training and Support Specialist – who, as described above, had duties that were primarily administrative in nature – reported that she spent approximately 60% of her time on Clery duties and 40% of her time on Title IX related administrative duties.

Prior to assuming the day to day Clery role, the Training and Support Specialist had no prior Clery compliance experience. She has since taken in person and online trainings, and has received substantive support and guidance from the University Police Department and the Chancellor's Office. The Training and Support Specialist reviews Maxient for reports of potential Clery crimes, but at the time of our campus visit had not yet been through the process of being involved with the issuance of a timely warning.

## **VII. 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. CSU Monterey Bay provides the following resources dedicated to supporting student and employee well-being.

### **A. Confidential Advocate<sup>34</sup>**

Monterey Bay contracts externally with the [Monterey County Rape Crisis Center](#) to provide confidential advocacy services to all members of the campus community. The Monterey County Rape Crisis Center is a nonprofit agency whose mission is to provide ongoing advocacy, support, and healing for victims and survivors of sexual assault, human trafficking, and child abuse, and to prevent sexual violence in the

---

<sup>34</sup> The Confidential Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

community through education. Monterey Bay has one dedicated confidential Campus Advocate, who has been working with the university for over four years and reports to Health and Wellness Services.

The Campus Advocate at Monterey Bay serves students, staff, and faculty. As described on CSU Monterey Bay's [Campus Advocate website](#), the Campus Advocate is available to the community for assistance navigating issues of sexual harassment, sexual assault, stalking, and intimate partner violence. The Campus Advocate website has information geared towards students (including how to make an appointment, available services, reporting options, and medical care information), faculty and staff (including the same information, as well as guidance (and responsible employee rules) for how to make referrals and support students, as well as information about requesting classroom presentation), and friends of survivors (including "do" and "don't" tips on how to support survivors).

As described to us, the Campus Advocate assists community members with crisis intervention, academic and housing accommodations, and referrals to other resources. Among these services, she refers campus members to the Title IX/DHR Office to make reports and support those campus members when they are engaged with the Title IX/DHR Office. Separately, the Campus Advocate does prevention and education work on campus; she reported that she is present at "tabling" events and conducts other outreach and classroom presentations to spread the word to the community about her role and prevention efforts.

The link to the Campus Advocate website is provided on the [General Information](#) tab of the Title IX/DHR Office's website,<sup>35</sup> and information about the Advocate is also included on a [Campus Resources & Reporting Options](#) flyer posted on the Title IX/DHR Office's website.

## **B. Respondent Support**

Most CSU universities have no dedicated resources uniquely for respondents. CSU Monterey is an outlier in this regard, as they have a dedicated Care Manager for student respondents. According to the [Respondent Services](#) webpage, the Care Manager is a staff member who may act as a consultant to "provide support to Respondents by helping the [respondent] understand available resources and offer process support throughout the investigation and appeal process, if any." The webpage lists the following services that the Care Manager may provide to respondents: acting as a support person during investigation interviews and early resolution discussions; assisting with issues related to retaliation; acting

---

<sup>35</sup> We note that this link is difficult to find and appears under the "Chief of Police" heading.

as a liaison between the respondent and faculty; providing other security and support, including assistance with no-contact orders as well as housing or academic accommodations; providing referrals to others resource and support services; and reviewing documents and materials from an investigation report to help the respondent understand the process. Notably, the Care Manager cannot provide legal advice.

As with other CSU universities, in the event a Title IX case proceeds to a hearing, the Chancellor's Office provides a hearing advisor to respondents, as required by the federal Title IX regulations, if they do not already have their own advisor.

### **C. Counseling and Health Services**

[Health & Wellness Services](#) at Monterey Bay consists of the Campus Health Center, the Personal Growth and Counseling Center, and the Student Disability and Accessibility Center, and relies on an integrated health model to assist members of the campus community with respect to their physical, mental, emotional, and spiritual wellness. The [Campus Health Center](#) is open during normal business hours Monday to Friday from 8:00 a.m. to 5:00 p.m., and serves students, faculty, and staff.

The [Personal Growth and Counseling Center](#) (PGGC) is available to enrolled students for their mental health needs. PGGC offers services including 24/7 [crisis intervention](#), [individual counseling](#), [support groups](#), psycho educational workshops, consultations, [educational outreach programs](#) (Otter Care), and mental health [referrals and resources](#). Among the workshops and groups offered by PGGC are ones relating to healthy relationships ("Re-Imagining Relationships) and supporting survivors of sexual abuse and trauma ("Surviving to Thriving"). While there are limits to how many individual counseling sessions students can attend, there are no limits to participating in these support groups and workshops. Health & Wellness Services also offers a [Health Promotion and Education](#) program designed to encourage and enhance wellness within the community, including increasing knowledge and awareness of issues related to sexual assault prevention. As noted above, the confidential Campus Advocate reports to Health and Wellness Services.

PGCC also offers assistance and guidance to [faculty and staff members](#) who wish to make referrals on behalf of students.

#### **D. Ombuds**

At the time of our campus visit, Monterey Bay did not have an Ombuds position. We heard repeated calls from the faculty and staff for the university to hire an Ombudsperson as a “middle ground” vehicle for conflict resolution. Last winter, the university posted a job opening for the role of University Ombudsperson. According to the posting, the role will entail serving “as an impartial party to receive student, faculty and staff complaints, provide information, facilitate communication, and offer conflict resolution between students and members of the university community (faculty, staff, and administrators) in a confidential environment.” This position has now been filled. The Ombudsperson will begin in September 2023 and will report to the Associate Vice President for Inclusive Excellence and Chief Diversity Officer.

#### **E. Additional Resources for Students**

Monterey Bay has a [Care Team](#) that sits within the Office of Student Life. The Care Team identifies students who may be experiencing distress or have concerns that could potentially impact their well-being. The Care Team, which meets weekly, consults in order to generate awareness and plan collaborative responses to coordinate assistance for these students of concern. The Care Team is composed of the following representatives from Student Affairs and Enrollment Services and the University Police Department: a Basic Need Case Manager; the Student Conduct Administrator; Counselor Faculty; the Care Manager; the Deputy Chief of Police; the Assistant Director of Residential Life; the Associate Director of Residential Life; the Associate Vice President for Student Affairs / Dean of Students; and the Associate Dean for Advising, Career & Student Success.

The university also has a [Behavioral Intervention Team](#) (BIT), which serves as the centralized campus team for discussion and coordinated action regarding reports of disruptive, problematic or concerning behavior or misconduct from co-workers, students, community members, friends, and colleagues. The BIT is a multidisciplinary team that can perform a threat assessment and determine the appropriate response and mechanisms to intervene or make referrals in the event of a crisis or concerning behaviors. The team consists of representatives from Title IX, Student Affairs, University Police, Human Resources, Health and Wellness, and Student Conduct.

## F. Additional Resources for Employees

The university also offers an [Employee Assistance Program](#) (EAP) administered through Empathia Pacific, Inc., which is available to provide professional and confidential assistance to employees and their household members in assessing and resolving personal problems that may be affecting their well-being or job performance. Among the services EAP provides to employees at Monterey Bay are consultations to address stress, depression, and personal problems; work-life balance; alcohol or drug dependencies; family and relationship concerns; workplace conflicts; and financial and legal consultations.

## VIII. Prevention, Education, Professional Development, Training, and Awareness<sup>36</sup>

Under the Nondiscrimination Policy, the Title IX Coordinator is responsible for “coordinating training, education, and preventive measures,” which may be delegated to a Deputy Title IX Coordinator.<sup>37</sup> Even if responsibilities are shared with a Confidential Advocate, the Title IX Coordinator “remains primarily responsible for all campus-based prevention and awareness activities.”<sup>38</sup> The Nondiscrimination Policy further provides: Confidential Advocates may serve on campus-based task force committees/teams to provide general advice and consulting, participate in prevention and awareness activities and programs, and play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing campus-wide awareness and outreach activities, possibly including prevention activities.<sup>39</sup>

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

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

---

<sup>36</sup> The legal and regulatory framework, which sets for requirements under federal and state law, is outlined in Section VII.B.2. of the Systemwide Report, Legal Framework re: Prevention and Education.

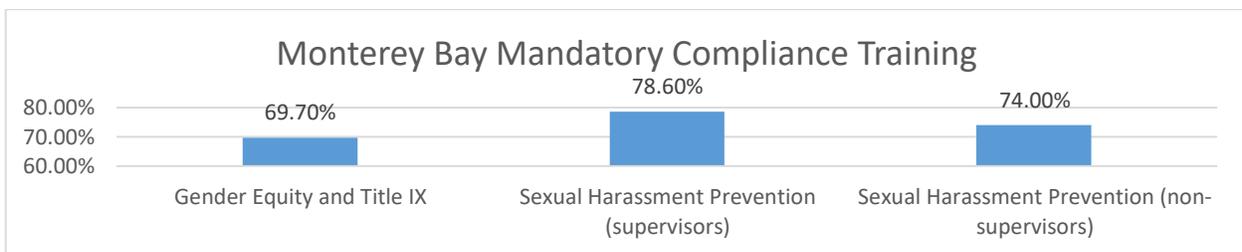
<sup>37</sup> See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

<sup>38</sup> See Attachment C: Confidential Sexual Assault Victim's Advocates.

<sup>39</sup> *Id.* Under Attachment C, all awareness outreach activities must “comply and be consistent with University policies” and the Advocate is required to “partner and collaborate with the Title IX Coordinator to ensure the activities comply with CSU policy and are consistent with campus-based practices.”

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 Monterey Bay State for the 2022 calendar year:<sup>40</sup>



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

In addition to the online module, the Title IX/DHR Office offers Title IX overview trainings for certain “high risk” segments of the student population. The former Title IX Coordinator/DHR Administrator reported offering these trainings to athletes, Residence Life staff, fraternity and sorority life, and international students.

Due to resource constraints, campus administrators and partners reported their perception that Monterey Bay is doing “almost nothing” in terms of prevention and education programming. Responsibility for the prevention and education space resides primarily with the Campus Advocate as well as Health Promotion and Education. We received feedback that prior to COVID, the Title IX/DHR Office would engage in some prevention and education programming (including training student leaders and sorority and fraternity members about bystander intervention), but that such programming was not happening anymore. Similarly, the Title IX/DHR Office has partnered with students on the [Title IX/DHR Ambassador Program](#) to encourage outreach and education regarding prevention. Although this program

---

<sup>40</sup> These percentages have been validated by each campus. Please note employees designated by their campus as “on leave” were removed from these final percentages.

was not operative during the COVID shutdown, we understand that it has now returned. As described on the Title IX/DHR Office website, student interns are recruited and trained (six hours) by the Office to “assist . . . with tasks critical to prevention and response for cases of discrimination and sexual misconduct. Title IX/DHR Campus Ambassadors carry out important education, prevention, and engagement activ[ities] including: bystander intervention, peer support and representing the Title IX/DHR Office by tabling at campus events.”

The Campus Advocate conducts educational programming relating to primary prevention and education. The [Campus Advocate website](#) has a “Presentation in Classes” description under the “Faculty and Staff” header that solicits requests for presentations. It states as follows:

The campus advocate is happy to come and give presentations to any class about the services the campus advocate can provide. The campus advocate will also take some time to answer any questions students may have about sexual violence or the campus advocate's role on campus. These presentations generally take between 15 and 20 minutes at a minimum. To schedule a presentation, please email [campusadvocate@csumb.edu](mailto:campusadvocate@csumb.edu).

Other topics that may be of interest to the class can be added to a services presentation. Examples of other topics included defining and contextualizing consent, sexual harassment, and sexual assault. Other possibilities include discussing the role of gender stereotypes, different forms of systemic/institutional oppression, and mass media's role in sexual violence. If you have any other topic you would like the campus advocate to discuss, please contact the campus advocate to work out those details. Please keep in mind that adding additional topics will increase the time of the presentation.

Monterey Bay's [Health Promotion and Education](#) program is designed to encourage and enhance wellness within the community, including increasing knowledge and awareness of issues related to sexual assault prevention. They also oversee the [POWER \(Promoting Otter Wellness through Education and Resources\) Peer Educator program](#), which trains students to provide primary prevention education and health promotion to fellow students, including a component on sexual health and resources to prevent and respond to sexual assault. Health Promotion and Education coordinates with the Title IX/DHR Office on some of these programs, including a recent tabling event about mental health and alcohol awareness.

They also coordinate with the Campus Advocate, including on recent programming relating to Sexual Assault Awareness month.

Unlike most other CSU universities, Monterey Bay's [Annual Security Report](#), required under the Clery Act, lists numerous primary prevention and awareness programs that are specific to the Monterey Bay campus. As described in the Annual Security Report, this programming includes but is not limited to the following:

- Bystander Intervention and risk reduction trainings, which are available virtually and conducted annually (by the Title IX/DHR Office) for student members of Greek organizations, student athletes and coaches, and bi-annually for RAs and student assistance in Housing.
- Title IX/DHR "General Sessions," available upon request, and entail live sessions with the Title IX/DHR Office regarding topics relating to dating violence, domestic violence, sexual assault, and stalking prevention.
- Title IX/DHR Ambassador Program, described above.
- Health Promotion and Education, including POWER (described above), mental health screenings, suicide prevention and awareness week, mental health awareness week, sexual assault awareness month, and National Collegiate Alcohol Awareness Week.
- Other discrete programming/events, including Denim Day, Every 98 Second, Slut Walk, Take Back the Night, documentary screenings, 30 Facts for 30 Days of SAAM, Make Art Not Violence, Domestic Violence Awareness Month, and a public awareness video-media campaign by the Campus Advocate.

We note that there appears to be a disconnect between the community's perception that no prevention and education programming is occurring, and the extensive list of programming listed in the university's Annual Security Report.

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

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

As with other universities across the CSU system and nationwide, CSU Monterey Bay has had to grapple with conduct issues that have been determined not to rise to the level of a potential policy violation but that nonetheless have been disruptive to the fabric of the living, learning, and working environments. We use the term *other conduct of concern* to refer to conduct that may not rise to the level of protected status discrimination or harassment, but may nonetheless violate other university policies or be disruptive to the learning, living, or working environment. This includes, for example:

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

The university, like universities nationwide, has struggled with the lack of a consistent response mechanism for addressing issues relating to civility, bullying, protected speech that negatively impacts constituents, and actions and words that entail misconduct but that do not relate to protected status and/or do not rise to the level of being sufficiently persistent, severe, and/or pervasive.

We observed with respect to this *other conduct of concern* that there was some level of confusion and frustration, emanating from certain university offices who intersect with the Title IX/DHR Office on a regular basis, about the jurisdictional bar being too high for the Office to accept a case. At Monterey Bay, the frustrations associated with this *other conduct of concern* have been intertwined with the concerns described above relating to the functioning of the Title IX/DHR Office. As noted above, campus partners consistently reported that, in the judgment of the Title IX/DHR Office, “nothing ever rose to the level” of a potential Title IX or DHR policy violation. As a result, they reported widespread confusion across departments and explained that they have struggled to understand exactly what types of conduct could ever “rise to the level.” One individual commented, for instance, that “it seemed like the Title IX/DHR Office’s main role was to say from the outset, ‘No, that doesn’t count.’” One administrator said that “for students, unless it’s a rock solid sexual assault, the Office will bounce the case back.” Another administrator said there was a strong desire among partners for a mapping exercise with the Title IX/DHR Office to establish clarity in terms of process, but said such an exercise had not occurred.

As a result of the perceived high jurisdictional thresholds, *other conduct of concern* has been routinely referred out to other departments for handling. However, in part because of the toxic divisions and loyalties referenced above, it was reported to us that in some cases information was not being shared effectively within certain departments in a way that would allow them to effectively triage, address, track, and document these matters; as reported to us, this was especially the case with faculty matters.

Separately, faculty members reported being frustrated with their colleagues, who they perceived as routinely “toeing the Title IX line” – in other words, knowing what types of comments and conduct might get them into trouble and going right up to (but not beyond) that line, knowing that they know they will

not face any repercussions by doing so. Faculty and staff members further expressed a fear of retaliation from administrators and/or managers for reporting misconduct, which, together with their perception of there being a high jurisdictional bar, create a barrier to reporting.

We consistently heard from faculty and staff members that they were frustrated about the lack of a “middle ground” for resolving conflict at the university. According to them, conflict resolution was an “all or nothing” choice at the university. We learned that prior to COVID, a “Bias Response Team” was being formed to address certain *other conduct of concern*; however, that Team never formed due to the interruptions from the pandemic. During our campus visit, we heard repeated calls from the faculty and staff for the university to create an anonymous reporting system and hire an ombudsperson as a “middle ground” vehicle for conflict resolution. Last winter, the university posted a job opening for the role of University Ombudsperson. According to the posting, the role will entail serving “as an impartial party to receive student, faculty and staff complaints, provide information, facilitate communication, and offer conflict resolution between students and members of the university community (faculty, staff, and administrators) in a confidential environment.” As noted above, this position has now been filled and the Ombudsperson will begin in September 2023 and will report to the Associate Vice President for Inclusive Excellence and Chief Diversity Officer.

## **X. Recommendations**

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

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

## **A. Infrastructure and Resources**

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

1. Work with the Chancellor's Office to develop a project plan for addressing gaps and implementing recommendations
2. Share existing budget line information with the Chancellor's Office, including historic and anticipated annual fees for external investigators, hearing officers, and other Title IX/DHR related resources, as well as budget line information related to the confidential campus advocates, prevention and education specialists, and respondent resources (recognizing that these resources are typically outside of the Title IX/DHR budget)
3. Map functions within the Title IX/DHR program to ensure sufficient personnel to cover all core functions, including: intake and outreach, case management, investigations and hearings, informal resolution, sanctions and remedies, prevention and education, training, data entry and analysis, administrative tasks, and additional resources to support legally-compliant, effective Title IX/DHR programs, as well as the essential care side of campus responses
4. Based on benchmarking and recommendations from the Chancellor's Office, identify recurring baseline (or line item) funding (both source and amount) for the Title IX/DHR program
5. Work with the Chancellor's Office to implement an enterprise-level case management system and develop protocols for consistent collection and retention of data
6. Ensure an adequate supervisory model that includes a routine cadence of supervisory meetings, guidance about how to ensure effective oversight and accountability measures, an appropriate level of detail for review, development, integration and tracking of decision-making frameworks, and balancing implementers' independence and autonomy with the need to identify and elevate critical issues and concerns about safety/risk
7. Commit to the consistent investment in professional development and continuous learning for Title IX and DHR professionals and senior leaders who oversee the Title IX/DHR program (CLEs, conferences, system training, etc.)
8. Evaluate whether oversight of the Clery function should remain within the Title IX/DHR Office, given the resource constraints that already exist within the Office, which are further exacerbated by full-time Clery responsibilities
  - 8.1. To the extent that oversight of Clery remains with the Title IX/DHR Office, we recommend hiring an additional Clery officer with subject matter expertise

## **B. Strengthening Internal Protocols**

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

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

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

- 1.5. Strengthen campus collaboration and information-sharing through a multidisciplinary team (MDT) model
  - 1.5.1. The Title IX Coordinator/DHR Administrator, in conjunction with the Chancellor's Office, should identify essential university partners to serve on the MDT and set standards for meeting goals and sharing real time information. MDT members may include representatives from Student Affairs/Student Conduct, Faculty/Academic Affairs, Human Resources, UPD, Title IX Coordinator, DHR Administrator, Clery Coordinator, and University Counsel
  - 1.5.2. The MDT should meet regularly and at a minimum, weekly, to review all new reports
  - 1.5.3. The MDT should ensure that all known and available information about the parties and the reported incident is shared with TIX/DHR to inform TIX/DHR's initial assessment and any steps it determines to take in response (including information maintained outside of Title IX/DHR's recordkeeping systems and information that may only be known to another unit or individual)
  - 1.5.4. 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
  - 1.5.9. Conduct a formal "mapping" exercise with partner offices to ensure that all offices are aligned on internal processes and jurisdictional thresholds governing when the Title IX/DHR Office can and cannot initiate an investigation
- 1.6. Develop tools for consistent, informed, effective documentation and case management

- 1.6.1. For quality control, develop a case opening and closing checklist to ensure that all relevant documents, correspondence, and information are captured and preserved electronically
- 1.6.2. To the extent feasible, seek to maintain data in a usable and searchable electronic format for efficient decision making, analysis and review
- 1.6.3. Migrate all historical DHR reports and Title IX reports into the enterprise-level case management system, if not already included
- 1.6.4. Develop periodic reviews for quality assurance
- 1.7. Oversee investigations for quality and consistency of prompt and equitable processes
  - 1.7.1. Establish a protocol to ensure the timeliness of investigations, with routine quality control mechanisms throughout investigation process
  - 1.7.2. Develop quality control processes for monitoring active investigations for thoroughness and timeliness and ensure timely communications to parties throughout the investigative process (e.g., calendar internal 30-day, 60-day and 90-day alerts to prompt the investigator or case manager to make outreach to the parties)
  - 1.7.3. Ensure each report has sufficient review by the Title IX Coordinator/DHR Administrator and University Counsel (for legal review of sufficiency and adherence to policy)
2. Continue to evaluate barriers to reporting and engagement at the university level, with aggregation of data and advice and guidance by the Chancellor's Office
3. Review and revise tone, content, and format of reporting forms and all 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, consistent with the detailed observations outlined above
  - 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
    - 3.2.1. Include information on the landing page (or a similar page about “Mission”) explicitly describing what the Title IX/DHR Office is and what it does for the Monterey Bay community
    - 3.2.2. Include information about available trainings and educational initiatives
    - 3.2.3. Consolidate and condense information relating to resources and options. The website contains links to three separate PDFs relating to University resources and rights/options, but it may be unclear and confusing to the average website visitor how they differ. Also, one of these PDFs is linked to the Title IX General Information page whereas the other

two are located under the Resources and Supportive Measures tab, which is a more logical location for this information.

- 3.2.4. Include recent Title IX Annual Reports to provide statistics from recent years
- 3.2.5. Break up the General Information page into separate and more digestible categories/tabs (e.g., “Reporting Options,” “Notice of Nondiscrimination,” etc) to make the page easier to read. Additionally, there is a link and contact information on this page for the Campus Advocate, but it is easy to miss among all the other information listed
- 3.2.6. Remove the definitions from the Investigation Process page and including them only under the Definitions page
- 3.2.7. Eliminate the Programs tab (because there is only one program listed under it) and include the information regarding the Ambassador Program elsewhere (e.g., under “Title IX”)
- 3.3. 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:
  - 3.3.1. 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
  - 3.3.2. 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
- 3.4. 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; respectful and inclusive environments; conflict resolution; bystander intervention strategies; effective leadership and supervision; and, reporting responsibilities under Title IX, the Clery Act, and CANRA
  - 10.1. Ensure the training includes information about prohibited consensual relationships given the significant overlap of prohibited consensual relationships with Title IX, DHR and *other conduct of concern*
11. Create routine training, education, and professional development opportunities to cultivate competencies in navigating difficult conversations, bridging differences, and modeling respect and civility
12. Evaluate the potential opportunities for curricular or course-based programming credential-based options
13. Incorporate information about the Nondiscrimination Policy, reporting options, and confidential resources in syllabi statements
14. Commit to providing programming regarding bystander engagement
15. Participate in national conferences, listservs, networking events and other opportunities to coordinate with other professionals dedicated to prevention

16. Engage students in the development and delivery of programming through peer educator/peer advocate programs
17. Identify student leaders who can serve as ambassadors/promoters of this work
18. Develop consistent on-campus opportunities to be visible and present in the community

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

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

1. In conjunction with the Chancellor's Office and CSU's Office of General Counsel, develop a written policy, document, or statement by senior leadership to establish expectations, guidelines, and/or definitions of conduct
  - 1.1. The written framework should address unprofessional conduct, abusive conduct, microaggressions, acts of intolerance, and other disruptive behavior in the living, learning and working environment
  - 1.2. The written framework must also address intersections with free speech and academic freedom, including the explicit recognition that the CSU cannot discipline for protected speech
2. Reinforce CSU values and expectations about respect, tolerance, and professionalism through programming and opportunities for in-person engagement
3. Strengthen and expand available competencies regarding conflict resolution, navigating interpersonal conflict, restorative justice, and other forms of remedial responses
  - 3.1. Strengthen traditional employee relations functions within human resources to assist in responding to concerns involving faculty and staff
  - 3.2. Strengthen competencies of managers, supervisors, deans and department chairs by providing expanded training and professional development to meet the needs of assigned roles
  - 3.3. Resource and promote the new Ombudsperson position and consider additional conflict resolution professionals, 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 Population<sup>41</sup>**

The below chart reflects key metrics and demographic information for CSU Monterey Bay:

California State University, Monterey Bay			
Location Information			
<b>Location:</b> Seaside, CA (pop. 31,478) <sup>42</sup>	<b>County:</b> Monterey County (pop. 432,858) <sup>43</sup>	<b>Locale Classification:</b> Midsize Suburb <sup>44</sup>	
University Information			
<b>President:</b> Vanya Quiñones, Ph. D. (August 2022-present) Eduardo M. Ochoa, Ph. D. (2012-July 2022)			
<b>Designations:</b> Hispanic Serving Institution (HSI) <sup>45</sup>			
Students – Enrollment Data <sup>46</sup>			
Total Number of Students		7,045	
State-Supported		Self-Supported	
Undergraduates	6009	Undergraduates	192
Grad & Post Bac Students	530	Grad & Post Bac Students	314
Student Ethnicity <sup>47</sup>			
Overall (includes State- and Self-Supported)			
Hispanic / Latino		53%	
White		26%	
Asian		7%	
Two or More Races		5%	
Race and Ethnicity Unknown		4%	
Black / African American		3%	
International Student		2%	
Native Hawaiian / Other Pacific Islander		<1%	
American Indian / Alaska Native		<1%	

<sup>41</sup> Unless otherwise noted, Cozen O'Connor obtained data concerning CSU Monterey Bay's demographics, populations, Title IX and DHR staffing, operations and caseload from California State University and CSU Monterey Bay. This report will be updated to reflect material inaccuracies brought to our attention on or before September 15, 2023.

<sup>42</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/seasidecitycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>43</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/montereycountycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>44</sup> Defined as a territory outside a Principal City and inside an Urbanized Area with population less than 250,000 and greater than or equal to 100,000. See National Center for Education Statistics, <https://nces.ed.gov/programs/edge/Geographic/LocaleBoundaries> and <https://nces.ed.gov/surveys/annualreports/topical-studies/locale/definitions>.

<sup>45</sup> HSIs are defined under the Higher Education Act as colleges or universities where at least 25% of the undergraduate, full-time enrollment is Hispanic; and at least half of the university's degree-seeking students must be low-income. See <https://www2.ed.gov/about/offices/list/ope/itudes/eligibility.html>

<sup>46</sup> California State University Enrollment Data, Fall 2022, Cal State Monterey Bay: [https://tableau.calstate.edu/views/SelfEnrollmentDashboard/EnrollmentSummary?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome=no](https://tableau.calstate.edu/views/SelfEnrollmentDashboard/EnrollmentSummary?iframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome=no) For purposes of this table, "state-supported" refers to students for whom the State of California underwrites some or all of their educational expenses and "self-supported" refers to students whose educational expenses are not underwritten by the state. Across the California State University system, with some exceptions, self-supported degree seeking students are generally those enrolled in programs administered by professional and continuing education programs.

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

State-Supported (6,539 students)		Self-Supported (506 students)	
Hispanic / Latino	54%	Hispanic / Latino	39%
White	26%	White	30%
Asian	6%	Asian	17%
Two or More Races	5%	Race and Ethnicity Unknown	7%
Race and Ethnicity Unknown	4%	Two or More Races	4%
Black / African American	3%	Black / African American	3%
International Student	3%	International Student	<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 <sup>48</sup>			
Overall (includes State- and Self-Supported)			
First in Family to Attend College	30%		
% students who are traditionally underrepresented <sup>49</sup>	56%		
% of undergrads who were Pell Grant recipients <sup>50</sup>	45%		
% of students who live on campus <sup>51</sup>	41%		
% undergrads who are in a fraternity or sorority <sup>52</sup>	4%		
4-year graduation rate for first-time FT freshmen <sup>53</sup>	39.2%		
State-Supported (6,539 students)		Self-Supported (506 students)	
Average Age	23	Average Age	32
Sex <sup>54</sup>	62% F; 38% M	Sex <sup>55</sup>	59%F; 41% M
First in Family to Attend College	30%	First in Family to Attend College	33%
% traditionally underrepresented <sup>56</sup>	57%	% traditionally underrepresented <sup>57</sup>	42%
Instructional Faculty <sup>58</sup>			
Total # of faculty	468.00		
Tenure-track	40.6%		
Lecturer	59.4%		
% full-time <sup>59</sup>	50.79%		
% part-time	49.21%		
Leadership body	Academic Senate <sup>60</sup>		

<sup>48</sup> *Id.*, except where noted otherwise. This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

<sup>49</sup> For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

<sup>50</sup> Pell Grants are federal grants that are usually awarded only to undergraduate students who display exceptional financial need. See U.S. Department of Education, Federal Student Aid, <https://studentaid.gov/understand-aid/types/grants/pell>. This data is for 2021 as 2022 data is not yet available.

<sup>51</sup> California State University, 2022 Systemwide Housing Plan, Figure 7, p. 20: <https://www.calstate.edu/impact-of-the-csu/government/Advocacy-and-State-Relations/legislative-reports1/Legislative-Report-CSU-Systemwide-Housing-Plan.pdf>.

<sup>52</sup> See <https://csumb.edu/greek/> (last visited May 17, 2023).

<sup>53</sup> California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with Cal State Monterey Bay selected in drop-down menu. See <https://www.calstate.edu/data-center/institutional-research-analyses/Pages/graduation-and-success.aspx>. This data reflects the four-year graduation rate for first-time full-time freshmen entering CSUMB during the Fall 2018 (most recent complete 4-year term available).

<sup>54</sup> Data does not capture number of students who do not identify on the sex/gender binary.

<sup>55</sup> *Id.*

<sup>56</sup> For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

<sup>57</sup> *Id.*

<sup>58</sup> California State University, CSU Faculty, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-faculty>, except where noted otherwise.

<sup>59</sup> California State University, CSU Workforce, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-workforce/Pages/default.aspx>. See “Headcount/FTE by Campus” tab.

<sup>60</sup> Cal State Monterey Bay Academic Senate. See <https://csumb.edu/senate/>.

<b>Staff<sup>61</sup></b>	
Total # of staff	545
% full-time	95.05%
% part-time	4.95%
<b>Collective Bargaining Units</b>	
Units 2, 5, 7, 9	California State University Employees' Union (CSUEU)
Unit 3	California Faculty Association (CFA)
Unit 4	Academic Professionals of California (APC)
Unit 6	Teamsters, Local 2010 – Skilled Trades
Unit 8	Statewide University Police Association (SUPA)
Unit 11	Academic Student Employees (UAW)
<b>Athletics<sup>62</sup></b>	
NCAA Division	II
NCAA Conference	CCAA <sup>63</sup>
Number of sponsored sports for '22-'23 academic year	13
Number of student athletes <sup>64</sup>	163

<sup>61</sup> California State University, CSU Workforce, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-workforce/Pages/default.aspx>. See "Headcount/FTE by Campus" tab.

<sup>62</sup> NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=30055>, except where noted otherwise.

<sup>63</sup> All sports are in the California Collegiate Athletic Association except Women's Water Polo, which is part of the Western Water Polo Association Women.

<sup>64</sup> See U.S. Department of Education, Equity in Athletics Data Analysis, at <https://ope.ed.gov/athletics/#/>, data for California State University Monterey Bay. Number of student athletes equals the sum of the Unduplicated Count of Participants for Men's Teams plus the Unduplicated Count of Participants for Women's Teams.

## Appendix II Feedback from Survey

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

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

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

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

We received feedback from students, faculty, staff, and administrators in the form of survey responses. At Monterey Bay, we received 687 responses<sup>65</sup> from Monterey Bay students, faculty, staff, and administrators as follows:

Constituency	Number of Responses
Undergraduate students	406
Graduate students	56
Staff	116
Administrators/Managers	36
Faculty	76
Other	22

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:

- Role of Title IX office. Many survey respondents stated that they believed the Title IX office serves the institution rather than its stakeholders.
- Centralized hub for reporting. Many survey respondents stated that they did not know where or how to make a report to the Title IX/DHR Office, and did not know what that Office does. They requested that this information be more readily available on the website and updated regularly.
- Misinformation about process and accessibility. Many survey respondents repeated misinformation about the Title IX policy and process, including that it was not available in cases where a respondent was a member of a fraternity.
- Mistreatment of staff and untenured employees. With respect to the University’s culture of inclusion and respect, several survey respondents wrote that they felt disrespected and treated poorly because they were a member of the staff or untenured faculty.

---

<sup>65</sup> Some survey respondents identified as belonging to multiple constituencies; hence, the number listed here is smaller than the sum total in the chart below.

- Improvements to training. Many survey respondents stated that the Title IX training they receive is not relevant to them, is not particularly engaging, and is repetitive.
- Confusion from responsible employees. Survey respondents who identified as responsible employees described reporting potential Title IX violations to their direct superior only, or waiting for the complainants to report directly to Title IX, rather than making reports themselves to the Title IX/DHR Office.
- Disability accommodations. Several survey respondents stated that they had experienced discrimination on the basis of disability, or that they were not properly accommodated.

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

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

As part of our review of the Title IX program at CSU Monterey Bay, we reviewed the University's annual Title IX reports for four academic years 2018-2019 through 2021-2022. These annual reports were provided by the Title IX/DHR Office but are not posted to the Office's website. The annual reports provide data regarding the reports of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, Stalking, and, as of 2021-2022, Sexual Exploitation and Sexual Harassment, made to the Office each year. The annual reports reflect the number of reports received, disaggregated by the type of conduct and the role of the respondent (student, employee, third-party, unknown, or unidentified). Beginning in 2019-2020, the annual reports also reflect procedural outcomes, including:

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

The annual reports provide information about sanctions imposed upon findings of responsibility and through 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 all 23 universities. That being said, we have confidence that the data, while imperfect, provides sufficient reliability to extrapolate key themes and observations. As currently structured, the data-gathering system has significant challenges:

- across the system, the universities do not use consistent documentation and recordkeeping systems and practices to maintain their data;
- data gathered by the Chancellor's Office is reliant on reporting by Title IX/DHR staff at each university based on the nature and manner in which they keep documentation;

- 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 universities 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 universities, 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 consistently 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 Title IX functions or make meaningful comparisons with other CSU universities from the data alone.

In presenting the below data, we note that some universities identified challenges with accuracy or completeness in their data. We have attempted to reconcile that data where possible, recognizing that some universities have provided data prepared by individuals who are no longer employed by the CSU. 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. CSU Monterey Bay responded that, because the reports were prepared by the former Title IX Coordinator/DHR Administrator, they could not confirm the accuracy of the data without additional internal review, which they were still undertaking as of the date of this report.

Finally, we recognize the significant impact of the COVID-19 pandemic on colleges and universities across the country, including CSU Monterey Bay. While we cannot know the precise impact that the pandemic had on incidence rates, awareness of campus resources, barriers to reporting and other relevant factors, we are careful not to draw firm conclusions about trends over the past three years due to the obvious but unquantifiable differences in pre- versus post-pandemic conditions.

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

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

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

	2018-2019	2019-2020	2020-2021	2021-2022
Reports of Sexual Misconduct/Sexual Assault	8	5	0	5
Reports of Dating/Domestic Violence	4	12	13	8
Reports of Stalking	1	6	2	4
Sexual Exploitation*	-	-	-	1
Sexual Harassment*	-	-	-	11
<b>Total # of Reports in Above Categories</b>	<b>13</b>	<b>23</b>	<b>15</b>	<b>29</b>
* This data was not requested by the Chancellor's Office prior to the 2021-2022 academic year.				

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

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

	2018-2019	2019-2020	2020-2021	2021-2022
Reports in which the Respondent is a student	3	3	0	11
Reports in which the Respondent is an employee	0	3	0	1
Reports in which the Respondent is a third-party	4	13	4	4
Reports in which the Respondent is unknown	1	7	9	4
Reports in which the Respondent is unidentified				9
<b>Total # of Reports in Above Categories</b>	<b>8</b>	<b>26</b>	<b>13</b>	<b>29</b>

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

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

**C. Case Outcomes<sup>68</sup>**

The below data reflect the collective outcomes of reports to the Title IX/DHR Office.<sup>69</sup>

	2018-2019	2019-2020	2020-2021	2021-2022
Reports in which the Complainant did not respond to outreach and there was insufficient information to move forward	12	5	6	18
Reports in which the Complainant’s identity was unknown to the Title IX Office		-	-	-
Reports in which the Complainant requested supportive measures or resources only		-	9	6
Reports that resulted in other outcomes (except formal investigation)		14	-	5
Reports that resulted in a formal investigation*	1	2	0	0
<p>* 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 does not 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.</p>				

---

<sup>68</sup> Case Outcome totals may differ from Reported Conduct totals depending on exclusion of pending cases at the time of the annual report and inclusion of resolved open cases from previous years.

<sup>69</sup> As a reminder, in 2021-2022, the data included Sexual Exploitation and Sexual Harassment, which were not included in earlier years. Because of the manner in which data was gathered by the Chancellor’s Office, it is unclear how the addition of these two categories of conduct impacted the number of outcomes.