

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

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California Polytechnic State University, San Luis Obispo

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## I. Introduction

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

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

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

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

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

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

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

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

This report outlines Cozen O’Connor’s assessment of the Title IX and DHR programs at California Polytechnic State University, San Luis Obispo (San Luis Obispo Report). The Cal Poly San Luis Obispo review was led by Devon Riley and Maureen Holland. The San Luis Obispo 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 San Luis Obispo 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.

Cal Poly San Luis Obispo is located in San Luis Obispo, CA. It has a student population of approximately 22,000, 36% of whom live on campus, and a workforce of approximately 2,700 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 Cal Poly San Luis Obispo, Cozen O'Connor conducted a three day in-person campus visit from January 17 to 19, 2023. We also held additional follow-up meetings via Zoom. In total, Cozen O'Connor conducted 23 meetings with more than 60 Title IX/DHR professionals, administrators, and other key campus partners, some of whom we spoke to on multiple occasions. These meetings included interviews with the following individuals and departments (identified by role):

- Vice President of University Personnel and Chief Human Resources Officer
- Civil Rights & Compliance Office (CRCO)
  - Assistant Vice President of the Civil Rights & Compliance Office
  - Compliance Manager
  - Analyst and Administrative Support
  - Administrative Support Coordinator
- University Police and Clery
  - Assistant Vice President for Public Safety and Chief of Police
  - Deputy Chief of Police
  - Compliance Manager in CRCO
  - Clery Director
- Office of Student Rights and Responsibilities
  - Associate Dean of Students and Director, Student Rights and Responsibilities
- University Counsel
- Provost / Academic Affairs
  - Provost and Executive Vice President for Academic Affairs
  - Vice President of University Personnel and CHRO
- Academic Personnel
  - Associate Vice Provost for Academic Personnel
  - Assistant Vice President for Employee and Labor Relations
- Office of University Diversity and Inclusion (OUDI)
  - Interim Vice President for Diversity and Inclusion and Chief Diversity Officer
  - Associate Dean for Diversity and Curriculum
  - Assistant Vice President for DEI Strategic Planning and Networks
- Campus Health and Wellbeing
  - Assistant Vice President for Student Affairs Health and Wellbeing
  - Interim Director of Wellbeing and DEI
  - Interim Medical Director, Board Certified in Family Medicine
  - Director of Counseling Services
  - Clinical Services Director for Campus Health and Wellbeing
- Disability Resource Center
  - Director, Disability Resource Center
- Safer Advocates
  - Assistant Director of Wellbeing; Director of Safer
  - Confidential Advocates

- Student Affairs / Dean of Students
  - Vice President for Student Affairs, Chair of Student Affairs Advisory Council
  - Dean of Students
- Housing Administrators / Coordinators of Student Development (CSDs)
  - Administrators
    - Assistant Director
    - Interim Assistant Directors
    - Coordinators of Student Development
  - CSDs
- Housing Leadership Team
  - Associate Vice President for Student Affairs and Executive Director of University Housing
  - Administrative Analyst/Specialist
  - Senior Director for University Housing
  - Director of Residential Student Experience
  - Director of Housing Business and Finance
  - Director of Housing Diversity, Equity and Inclusion
  - Director of Housing Custodial Operations
  - Assistant Director Communication and Outreach for Housing
  - Associate Director for Facility Operations
  - Custodial Operations Manager
  - Interim Facility Manger
- Athletics
  - Director of Athletics
  - Senior Associate Athletic Director for Compliance; Senior Woman Administrator
- Student Diversity and Belonging / International Center / Ombuds
  - Assistant Vice President for Student Affairs, Diversity and Inclusion
  - Assistant Vice Provost for International Programs
  - Student Ombuds
  - Dream Center Interim Coordinator
  - Native American Indigenous Cultural Center
  - Assistant Coordinator Black Academic Excellence Center
  - Coordinator for Multicultural Center
- Safer Prevention and Education
  - Assistant Director of Wellbeing; Director of Safer
  - Prevention Specialist for Gender-Based Violence Initiatives; health educator
  - Student interns

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

During our campus visit, Cozen O'Connor met with representatives from Associated Students, Inc. (two attendees), Academic Senate Executive Committee (three attendees), and Women Gender & Queer

Studies (six attendees). We also held open forums for students (six attendees) and employees (five attendees).

In December 2022, we asked each of the 23 universities to disseminate an invitation to participate in an online survey. University presidents and the Chancellor's Office communicated the availability of the survey to all faculty, staff, and students at the university. The survey was open from December 2022 through February 2023. In total, we received 926 responses to the survey from Cal Poly San Luis Obispo students, faculty, staff, and administrators. A summary of the survey response rate and data is included in Appendix II.

### III. Summary of Findings and Recommendations

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

**Infrastructure, Visibility, and Trust Gap:** The Civil Rights & Compliance Office (CRCO) is responsible for implementation of Cal Poly San Luis Obispo's Title IX and DHR programs. The office of eight professionals is responsible for responding to reports of discrimination and harassment, providing supportive measures to individuals, conducting investigations and hearings, administering informal resolution agreements, providing training for students and employees, and overseeing prevention and awareness programming. Based on our engagement with campus stakeholders, some members of the community reflected an incomplete understanding of CRCO's role and function, with many community members perceiving CRCO as solely an investigative and adjudicatory resource that felt overly legalistic and/or protective of the university over the individual, which contributed to a trust gap. While perceptions of this nature are common nationally, at Cal Poly San Luis Obispo, we observed an opportunity to address some gaps in community perception by better promoting the care and supportive measures aspects of CRCO's work, adjusting more legalistic language in external and template communications to be more accessible, and providing additional training and education about CRCO's role and function on campus. As it relates to resources, Cal Poly San Luis Obispo is one of the best resourced Title IX/DHR offices in the system. While CRCO staff reported that the office was sufficiently resourced to carry out the Title IX and DHR



functions, community members shared with us concerns about gaps in responsiveness that should be addressed. In particular, we recommend that additional resources be added to enhance the intake, support, and training functions to round out CRCO's services and help promote CRCO as more than an investigative and adjudicatory resource.

**Collaboration with Campus Partners:** Through this assessment, we learned of challenges in the relationship between CRCO and the Safer Confidential Advocates that have the potential to impact how each office serves students, faculty, and staff, and also affect the nature of the collaborative relationships with other campus partners. Campus stakeholders described a palpable breakdown in communication related to multiple issues, including the provision of supportive measures, employee reporting responsibilities, and the sharing of information between CRCO and Safer. Based on information from multiple stakeholders within CRCO, Safer, and other departments, the communication breakdown is negatively impacting perceptions, and perhaps functioning, of the Title IX program, in part because the challenges are readily observable by other campus community members, including students, faculty, and staff. Some campus partners expressed a greater willingness to assist CRCO, particularly in reaching out to complainants who have not responded to outreach, but have felt limited in their ability to do so under the current level of coordination and information sharing, which may inhibit effective communication and impair campus partners' abilities to serve students, faculty, and staff. We recommend that university leadership directly address the communication breakdown and facilitate a resolution between CRCO and Safer to restore the working relationship between these two critically important offices. Such a resolution will minimize any continuing impact to community members. We also recommend a more robust multidisciplinary team and enhanced information sharing systems to ensure greater collaboration.

**Prevention and Education:** CRCO, in collaboration with Safer (the university's prevention education and confidential advocacy resource for sexual assault, intimate partner violence, domestic violence, stalking, sexual exploitation and harassment), provide relatively robust prevention and education. Safer employs a dedicated prevention specialist, whose role is to develop and provide prevention and awareness programming related to sexual and interpersonal violence. The programming appears to be effective,

as we learned and observed that the student population has a high level of awareness of issues related to discrimination and harassment. We also observed opportunities to educate the community about Safer and CRCO's roles, and more broadly about the difference between confidential advocacy and neutral reporting, investigation, and resolution processes. Our recommendations address opportunities to increase collaboration, engage in strategic planning, and organize, align, and track prevention and education efforts.

**Responding to *Other Conduct of Concern*:**<sup>2</sup> As with other CSU universities, Cal Poly San Luis Obispo struggles in its response to conduct issues that may not fall under the Nondiscrimination Policy, but are nonetheless disruptive to the living, learning, and working environment. Unlike many other CSU universities, we learned that Cal Poly San Luis Obispo has taken proactive steps to address *other conduct of concern*. Notably, Cal Poly San Luis Obispo has a Bias Incident Report Team (BIRT) that provides support and resources to those who report and/or witness acts of bias. We learned that university leaders are engaging in intentional efforts to incorporate bias education and prevention in an effort to be more proactive and less reactive. We also learned that CRCO often shares with Human Resources and/or faculty Deans in the need-to-know circle reports or findings regarding conduct that does not rise to a policy violation, but is otherwise disruptive to the working environment. Faculty and Human Resources leadership shared examples of their engagement in addressing this *other conduct of concern* through direct conversations with employees or other steps. We also learned that there are structures that allow CRCO to engage BIRT in the response process when CRCO determines the conduct does not rise to a policy violation. We recommend that Cal Poly San Luis Obispo

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<sup>2</sup> We use the term *other conduct of concern* to refer to conduct that may not rise to the level of protected class discrimination or harassment, but may nonetheless violate other university policies or be disruptive to the learning, living, or working environment. This includes, for example:

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

work closely with the Chancellor's Office to strengthen existing processes to address reports of *other conduct of concern*, build institutional competencies, and expand resources.

#### **IV. The Civil Rights & Compliance Office**

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

The Civil Rights & Compliance Office (CRCO) is responsible for implementing Cal Poly San Luis Obispo's Title IX, DHR, Clery Act, Americans with Disabilities Act, and conflict of interest programs; as well as responding to whistleblower complainants, Public Records Act requests, subpoenas, and inquiries from the U.S. Department of Education and the California Civil Rights Department. The office of eight professionals is led by the Assistant Vice President (AVP) of CRCO, who serves as the University's Title IX Coordinator, DHR Administrator, 504/ADA Coordinator, Conflict of Interest Administrator, Whistleblower Administrator, Clery Director, and Public Records Act Officer. The AVP also conducts investigations. In addition to the AVP, CRCO includes an Associate Director and Deputy Title IX Coordinator, an Assistant Director and Title IX/DHR Investigator, a Care Manager (for students) and Hearing Coordinator, a Compliance Manager who primarily oversees compliance with the Clery Act, and three individuals who provide administrative support. There is a high level of institutional history in the unit as three members of the current CRCO staff are alumni and have worked at Cal Poly San Luis Obispo for more than ten years.

In addition to CRCO investigators, CRCO engages external professionals to conduct investigations through the Office of General Counsel. Hearing Officers are external professionals who have been pre-approved by the Chancellor's Office and selected by the university. We heard conflicting information on the capacity of CRCO. CRCO identified a need for two additional investigators,<sup>3</sup> a training and prevention coordinator, and an ADA specialist. We also heard that while CRCO employees have full caseloads, they are able to carry out their responsibilities in a 40-hour work week.

The AVP of CRCO reports to the Vice President for University Personnel and Chief Human Resources Officer. The AVP of CRCO is afforded a high level of autonomy to carry out her role and CRCO is supported by university leadership, including the President.

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<sup>3</sup> Due to a recent hire, CRCO's identified need is now for one investigator, not two.

CRCO does not have or use a case management or document management system. During our campus visit, CRCO staff identified the lack of a case/document management system as a challenge to their work. Offices in Student Affairs including, Dean of Students, University Housing, Office of Student Rights and Responsibilities, and Campus Health and Wellbeing use the Advocate case management system. CRCO has access to Advocate, but CRCO does not use Advocate to keep records of its own cases.

Reports have increased over the last five years from 150 to 400-500 per year. The increase in reports has come with a concomitant investment in resources in the Title IX and DHR functions. Each of the 23 CSU universities maintains data about the nature of reports, resolutions, and other demographics, albeit in inconsistent and varied manners. Each of the 23 CSU universities also produces an annual report and shares data with the Chancellor's Office. An overview of the metrics from the Title IX annual reports is included in Appendix III.

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

We learned that, generally speaking, Cal Poly San Luis Obispo students are highly attuned to conduct that may constitute discrimination, harassment, or retaliation. We also learned that Cal Poly San Luis Obispo employees have a high level of awareness regarding their reporting obligations. These factors contribute to CRCO receiving a large volume of reports. We learned from CRCO that the majority of reports it receives are from third parties, and that many referrals originate from employees who are fulfilling their mandatory reporting responsibilities. Consistent with trends across the country, the prevalence of third-party reporting at Cal Poly San Luis Obispo suggests that complainants typically share their accounts with peers, faculty members, Confidential Advocates or others first, rather than reporting directly to Title IX or DHR officials. Despite the large volume of reports CRCO receives, we did hear first- and second-hand accounts which suggested that some community members do not understand the difference between CRCO and the Confidential Advocates through Safer. Some community members expressed confusion about when to refer individuals to Safer versus when to refer individuals to CRCO. We observed a need for university wide messaging and trainings to more clearly delineate the roles of CRCO and Safer to resolve the confusion.

### **C. Website**

The CRCO website is a resource for information on reporting, policy, process, and resources. Recognizing that the website is often the community's first point of access into CRCO, it would benefit from a revision with an eye toward sharing information in a more accessible and user-friendly format. The landing page should clearly highlight the office's core functions in providing supportive measures and education to the community and in ensuring compliance with the law and policy. The use of flow charts and updated FAQs can help to distill the dense information.

The Notice of Non-Discrimination for Title VI and other protected statuses should be added to the CRCO website as well, given CRCO's role in addressing reports of discrimination and harassment based on other protected statuses.

### **D. Reporting Options**

Reports of prohibited conduct based on protected statuses, including discrimination, harassment, and retaliation, may be made to CRCO in person or via email or telephone by a complainant directly or through third parties (e.g., responsible employees or, as Cal Poly San Luis Obispo refers to them, "mandated reporters"). The CRCO reporting website provides a link to a CSU complaint form that can be downloaded, completed, and submitted to CRCO via email. The website instructs users that the complaint form may only be used by "victims/complaining parties" and that "mandated reporters" must use one of the other reporting options. The complaint form provides that the names and contact information for the complainant and the respondent are required to be included, but because the form is not submitted through an online system, the form can be emailed to CRCO without that information. There is no instruction on the complaint form or on the CRCO website about whether and how someone may submit an anonymous report.

CRCO's reporting website contains the following language, which we understand is based on language in the Nondiscrimination Policy:<sup>4</sup>

Information regarding a report submitted to the Civil Rights & Compliance Office shall only be shared with other University employees and law enforcement exclusively on a

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<sup>4</sup> The CSU System publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

“need to know” basis. University employees shall endeavor to honor any Complainant’s request for confidentiality; however, the University shall also weigh requests for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the campus community. ***Confidentiality cannot be guaranteed.***<sup>5</sup>

While we understand the need to accurately describe the effect of reporting, we recommend that CRCO work with the Chancellor’s Office to rephrase the above paragraph to capture the difference between confidentiality and privacy and to accurately describe CRCO’s role as a resource that, while not confidential, maintains privacy and treats all information with sensitivity and care.

### **E. Case Processing**

Upon receipt of a report, CRCO logs the reported information in its master spreadsheet in Excel and sends email outreach to the complainant, inviting them to participate in an intake meeting with a CRCO staff member. The outreach letter contains all legally required information. It confirms CRCO’s receipt of the report; requests a meeting with the complainant to discuss the report, the resolution process, the availability of supportive measures, and the option to file a formal complaint; informs the complainant of the option to have an advisor of choice accompany the complainant to any meeting with CRCO; affirms the availability of housing and academic accommodations; provides the name and contact information for confidential resources (including Safer and counseling services) on and off campus; includes the option to report to law enforcement and seek medical attention; instructs of the importance of preserving evidence; and provides an overview of the process and a link to the Nondiscrimination Policy.

If a complainant is non-responsive to the outreach letter, CRCO will send a letter of abeyance to the complainant, which confirms that CRCO did not receive a response from the complainant, and informs the complainant that the matter will not proceed to an investigation and will be moved into “abeyance” and can be reopened by the complainant in the future.

If a complainant responds to either letter, an intake meeting will be scheduled. If in the response, the complainant makes clear that they do not want to pursue an investigation, an intake will be scheduled with the Care Manager to discuss and assess the reasonably available supportive measures. If the

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<sup>5</sup> <https://crco.calpoly.edu/report-to-crco> (last accessed July 16, 2023); emphasis in original.

complainant expresses uncertainty about whether they wish to pursue an investigation, the intake meeting will be scheduled with a CRCO investigator.

Following the intake meeting, the Title IX Coordinator reviews the information gathered and/or the formal complaint to assess whether the reported conduct falls within the scope of the Nondiscrimination Policy. If it does, then a Notice of Allegations is issued to the parties and an investigator is assigned. Notices of Allegations are prepared based on a template which is customized to reflect the reported information and to designate which of the three tracks outlined in the Nondiscrimination Policy will be followed. The Notices contain all legally required information. Following the fact gathering, the investigator provides all gathered information that is directly related to the allegations available for review by the parties and notifies them of the review via a template letter. We learned that requests by the parties for extensions and additional investigation during the evidence review period often led to investigations extending beyond the 100 business days provided in the Policy. Following the evidence review and completion of any additional investigation, the investigator then issues a report that fairly summarizes the relevant information gathered.

For cases that are decided at a hearing (Track 1 and Track 2 cases), a template Notice of Hearing is issued to the parties, informing them of the date, time, and location of the hearing, the name of the hearing officer, the purpose of the hearing, and applicable submission dates. A hearing officer, who is not the investigator or Title IX Coordinator, conducts the live hearing and makes a determination of whether the respondent violated the policy, by applying a preponderance of the evidence standard. We learned that scheduling the hearing often prolongs the resolution process, as advisor, party and hearing officer availability can be difficult to coordinate.

Following a formal complaint and upon agreement, matters may be resolved via an Informal Resolution Agreement. This resolution option takes a variety of forms and is used relatively often at Cal Poly San Luis Obispo. We did not review any Informal Resolution Agreements in the course of this assessment. We did hear that there are few available educational opportunities for Respondents to benefit from as part of a rehabilitative component of an Informal Resolution Agreement (e.g., anger management courses). The lack of rehabilitative offerings for respondents is a challenge at many schools nation-wide. The recommendations include sourcing and developing educational and rehabilitative offerings for respondents to include as available sanctions and as available components of an Informal Resolution Agreement.

If the Title IX Coordinator determines that the reported conduct is outside of the scope of the Nondiscrimination Policy, a Notice of Determination will be issued to the complainant, explaining the reason that the Policy does not apply to the reported conduct. If a formal complaint was filed, the Title IX Coordinator will issue a Notice of Dismissal, which is based on a template that is customized to the information in the report.

CRCO provides supportive measures to complainants, regardless of whether a formal complaint is filed. When a formal complaint is filed and a respondent is notified of the report, CRCO offers supportive measures to both complainants and respondents. CRCO's Care Manager is responsible for oversight of supportive measures for students. Supportive measures for employees are managed by CRCO in conjunction with the AVP for Academic Personnel, Employee and Labor Relations. We learned that, in some circumstances, CRCO provides supportive measures to parties for a defined period before referring and connecting parties with Disability Services for ongoing support. We learned that this defined period is flexible and has varied over time from one term to one year following resolution of the matter.

#### **F. Review of Investigation Reports<sup>6</sup>**

We reviewed a representative sample of investigation reports provided to us by CRCO, and found the reports reflected a thorough fact gathering that was presented clearly and neutrally. For investigation reports that included a determination of responsibility, we found the analysis to be clear, comprehensive, and based on the evidence collected.

#### **G. Community Feedback about CRCO**

The most common feedback about CRCO we heard from campus partners and in listening sessions was that CRCO functions primarily as an investigatory and adjudicatory office to the exclusion of support and care, and that the care, resources, and supportive measures aspects of the office are less visible, even to those who work closely with CRCO. For example, student leaders reported hearing from students that there was a lack of emotional support from CRCO. They shared the perspective that meetings with CRCO

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<sup>6</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.



staff left students feeling “invalidated.” We heard students’ perceptions were that, if the matter “[could not] be taken anywhere legally, the office tend[ed] to stop [providing] support.”

We heard this perception echoed by other university partners. One university administrator likened CRCO to a prosecutor’s office that “only pursues cases it can ‘win’” while not addressing word-against-word credibility cases, concluding they “do not meet the threshold.” Another administrator reported that the template communications from CRCO “feel very ‘check the box.’” Some individuals shared the perspective that CRCO focuses on “protecting” the university as opposed to serving individuals. We observed a clear perception of CRCO’s responses as risk-averse, tending toward saying less, and leaning on legal constraints as reasons for not acting to address conduct.

We also learned of the challenges faced by supervisors when they are not informed of the outcome of reports made to CRCO. The lack of information sharing led one university administrator to conclude that their “ability to manage and shift culture [is] significantly hinder[ed].”

CRCO was largely aware of this perception and has taken meaningful steps to shift the community’s understanding. As one example, CRCO has added a Care Manager to facilitate supportive measures for students. This position is part of the care and support function of the office. Our recommendations include the addition of an education and training coordinator to focus on educating the community about CRCO’s function and to increase engagement in awareness and prevention programming. We believe that the addition of this dedicated resource will also help develop a fuller community perspective about the office and its functions.

The *care-compliance continuum* is a term we have coined to capture the complexity of the task faced by higher education in implementing all aspects of Title IX in a manner consistent with university values and mission. The *care-compliance continuum* recognizes the need for supportive measures, resources, and care for the individual, as well as the need for a formal legal structure with appropriate checks and balances to ensure that key elements of effective practices are set forth in policy, resourced in action, and monitored for effectiveness and sustainability.

The belief that CRCO operates to protect the university, not the individual, is a common perception of Title IX Offices nationwide. Continued recognition of the *care-compliance continuum* and investments in the care elements will help shift experiences and perspectives at Cal Poly San Luis Obispo. Recommended investments in care include engaging with the community more readily on awareness and prevention

efforts, improving the community’s understanding of CRCO’s role through a revised website, increasing opportunities for community engagement through in-person events and informal opportunities to meet CRCO personnel, and improved collaboration with campus partners.

## **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>7</sup> (ii) adopt grievance procedures that are prompt and equitable;<sup>8</sup> and (iii) publish a nondiscrimination statement.<sup>9</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>10</sup> we incorporate the Title IX framework as it relates to these core requirements, because they apply equally to DHR programs.

### **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

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<sup>7</sup> 34 C.F.R. § 106.8(a).

<sup>8</sup> 34 C.F.R. § 106.8(b).

<sup>9</sup> 34 C.F.R. § 106.8(c).

<sup>10</sup> These include Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975. The implementing regulations for these statutes outline some requirements that are similar or identical to certain of the “core Title IX obligations.” For instance, most of the regulatory frameworks require a notice of non-discrimination. *See* 34 C.F.R. § 100.6(d) (Title VI), 34 C.F.R. § 104.8 (Section 504), and 34 C.F.R. § 110.25 (Age Discrimination Act), and 28 C.F.R. § 35.106 (ADA). Furthermore, the implementing regulations for the Age Discrimination Act closely mirror the core Title IX obligations in that they require educational institutions to: (i) designate at least one employee to coordinate their efforts to comply with and carry out their responsibilities, including investigation of complaints; (ii) notify beneficiaries of information regarding the regulations and the contact information for the responsible employee; and (iii) adopt and publish grievance procedures providing for prompt and equitable resolution of complaints. 34 C.F.R. § 110.25.

compliance efforts.<sup>11</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>12</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>13</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>14</sup>
2. Coordinating the effective implementation of supportive measures;<sup>15</sup>
3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;<sup>16</sup>
4. Considering the wishes of the complainant with respect to supportive measures, explaining the process for filing a formal complaint;<sup>17</sup>
5. Attending appropriate training;<sup>18</sup>

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<sup>11</sup> 34 C.F.R. § 106.8(a).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> 34 C.F.R. § 106.30(a)(defining "actual knowledge" as including notice to the Title IX Coordinator).

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

<sup>16</sup> 34 C.F.R. § 106.44(a)

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

<sup>18</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 § 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.")

6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;<sup>19</sup>
7. Overseeing the prompt and equitable nature of any investigation or resolution, and;<sup>20</sup>
8. Overseeing effective implementation of any remedies issued in connection with the grievance process.<sup>21</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>22</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 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

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<sup>19</sup> 34 C.F.R. § 106.45(b)(1)(iii).

<sup>20</sup> 34 C.F.R. § 106.8(a)(charging the Title IX Coordinator with "coordinating [institutional] efforts to comply" with Title IX)

<sup>21</sup> 34 C.F.R. § 106.8(a); 34 C.F.R. § 106.45(b)(7)(iv).

<sup>22</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."

involving Title IX issues.”<sup>23</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 and DHR Administrator was well positioned to effectively carry out their duties. As described above, this analysis consisted of assessing whether each Title IX Coordinator/DHR Administrator was appropriately positioned organizationally; sufficiently resourced; sufficiently trained; and free from conflicts of interest.

The University’s Title IX Coordinator and DHR Administrator has served in the role since 2019, and their contact information — as well as contact information for CRCO more broadly — is displayed on the university website. We find that the Title IX Coordinator/DHR Administrator is appropriately positioned organizationally, as they report directly to the Vice President for University Personnel and Chief Human Resources Officer, who is a member of President Armstrong’s cabinet.

In terms of resources, unlike their sister campuses, we learned that CRCO staff believe they are sufficiently resourced to carry out their responsibilities. There are no current vacancies.

In terms of training, we observed that the Title IX Coordinator/DHR Administrator, as a licensed attorney, has a high level of substantive subject matter fluency with respect to Title IX and DHR compliance. As required by law, CRCO publishes on its website a list of the trainings in which the team has participated that covered such topics as conduct, jurisdiction, intakes, dismissals, investigations, hearings, and sanctioning.

Finally, CRCO 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.

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<sup>23</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.”

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

The Title IX regulations require that institutions publish a nondiscrimination statement.<sup>24</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>25</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>26</sup>

Cal Poly San Luis Obispo 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.

Cal Poly San Luis Obispo's Notice of Non-Discrimination on the Basis of Gender or Sex is accessible on the university websites for Title IX and Human Resources. The Cal Poly San Luis Obispo landing page, as well as other department websites like Student Affairs and Admissions includes a link at the bottom of the

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<sup>24</sup>34 C.F.R. § 106.8(b).

<sup>25</sup> *Id.*

<sup>26</sup> 34 C.F.R. § 106.8(b)(2).

page to the Title IX webpage, that houses the link to the Notice of Non-Discrimination. There is no direct link to the Notice on the webpage for Athletics.

Cal Poly San Luis Obispo does not publish on any of its websites a broader Notice of Non-Discrimination on the basis of protected statuses other than sex and gender. Such a Notice, while not a requirement of Title IX, would be consistent with the purpose of Title VI and Title VII of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and other relevant federal and state laws prohibiting protected status discrimination, harassment, and retaliation.

### **C. Grievance Procedures**

Finally, the Title IX regulations require educational institutions to “adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited [as sex discrimination under Title IX] and a grievance process that complies with [34 C.F.R. § 106.45] for formal complaints . . . .”<sup>27</sup> The regulations further require educational institutions to provide notice of the grievance procedures and process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond to such a report or complaint.<sup>28</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

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<sup>27</sup> 34 C.F.R. § 106.8(c).

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

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.

The CSU’s prohibition against certain consensual relationships is embedded within the Nondiscrimination Policy.<sup>29</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.

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<sup>29</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.”



## **VI. Campus Coordination**

In our review, we observed strengths and opportunities in CRCO's collaboration with campus partners.

In terms of strengths, we learned that CRCO holds two regular biweekly meetings. The first is an internal meeting with CRCO staff to review all open cases, provide updates, and strategize on next steps. The second is a meeting with campus partners, including individuals from the Offices of the Dean of Students, Student Conduct, Health Services, UPD, General Counsel, and Human Resources. In this meeting, CRCO provides a review of its cases. We heard conflicting information about the scope of this meeting with some attendees reporting that CRCO reviewed only open investigations at this meeting, with other attendees including CRCO reporting it reviewed all open cases, including those in which the complainant sought supportive measures only or those in which a complainant has not responded to outreach. Our recommendations below include refashioning the biweekly meeting with campus partners into a multidisciplinary team that continues to address all incoming cases using consistent frameworks for communication, information sharing, decision-making, and documentation of decisions.

We heard from numerous campus partners that they hoped for increased information sharing with and from CRCO to better enable the campus partner to provide support to impacted individuals. In particular, some campus partners expressed a greater willingness to assist CRCO, particularly in reaching out to complainants who have not responded to outreach, but have felt limited in their ability to do so under the current level of coordination and information sharing, which may inhibit effective communication and impair campus partners' abilities to serve students, faculty, and staff. This suggests that, in its current form, the biweekly meeting with campus partners is not an effective standalone mechanism for information sharing and coordination.

In terms of challenges, as noted above, we learned of challenges in the relationship between CRCO and the Safer Confidential Advocates that have the potential to impact how each office serves students, faculty, and staff, and also affect the nature of the collaborative relationships with other campus partners. Given the complexities of the issues, there are likely to be natural tensions that arise between the system of support and advocacy and the system of assessment and adjudication; however, campus stakeholders described a palpable breakdown in communication related to multiple issues, including the provision of supportive measures, employee reporting responsibilities, and the sharing of information between CRCO and Safer. Based on information from multiple stakeholders within CRCO, Safer, and other departments,

the communication breakdown is negatively impacting perceptions, and perhaps functioning, of the Title IX program, in part because the challenges are readily observable by other campus community members, including students, faculty, and staff. Some community members shared anecdotes that directly evidenced the depth of the erosion of communication between these important offices and the resulting impacts to others. This communication breakdown negatively impacts each office and has broader consequences beyond CRCO and Safer. For example, staff from both offices expressed reticence to working with the other. In addition, some community members who were not part of either office noted the breakdown and expressed their concern that students, faculty, and staff were left to bear the impact of the strained relationship. Our recommendations speak to the need to rebuild this relationship and healthy communication between these offices.

CRCO and Safer have an important partnership and their professional relationship is vital to the success of CRCO's implementation efforts. The relationship between CRCO and Safer must be premised upon mutual respect, a recognition of the offices' differing functions, and an appreciation for appropriate boundaries and lanes established and enforced to best serve students, faculty, and staff. Our review did not focus on or identify the source of the communication breakdown, but we did hear about and wish to reflect its deep impact. We recommend university leadership directly address the communication breakdown and facilitate a resolution to restore the working relationship between these two important units. We also recommend establishing the expectation that any concerns about policy, process, and practices observed by a confidential advocate be addressed directly with responsible administrators and systemwide subject matter experts to facilitate collaborative efforts to improve the overall institutional response for students, staff, and faculty.

We also heard concerns from campus stakeholders that CRCO may not respond to third-party reporters who refer matters to CRCO as part of their responsible employee reporting obligations. While there are privacy considerations that preclude the sharing of specific information about reports or outcomes, responsive communications reinforce trust in the process and provide employees with an acknowledgement of having fulfilled their responsible employee role. These responsive communications also serve as an opportunity to provide important information about CRCO's next steps, how to provide support to a complainant or respondent, and to explain why an employee may not be notified of further steps taken. More broadly, we suggest that CRCO consider publishing quarterly or annual reports to the community that provide a meaningful and comprehensive overview of the reports received, the constituents involved, and the aggregate outcomes.

Last, we learned that CRCO does not currently use a case management system and that its records are not integrated with other university records or databases. Instead, CRCO currently uses an Excel spreadsheet of all open and closed cases, in which case statuses are updated manually once or twice a week following requested updates by the CRCO case manager. CRCO does have access to Advocate, the records management system used by offices in Student Affairs. CRCO acknowledged the need for a records management system, and is in the process of procuring Maxient, which will improve the accuracy and reliability of CRCO's record keeping. Depending on the adoption of Maxient campuswide, there may still be obstacles to sharing information across units.

An effective Title IX program cannot operate in a vacuum. To be effective, the CRCO process must provide mechanisms for the timely sharing of information in order to inform judgment for next steps, identify patterns and trends, and provide holistic responses. Our recommendations address steps to integrate and prioritize information sharing and collaboration with campus partners to carry out roles effectively.

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

The Cal Poly San Luis Obispo Police Department (UPD) provides law enforcement services, including patrol, emergency response, and investigative services. The department is comprised of 22 sworn police officers with arrest powers, along with nine civilian employees. UPD has memorandums of understanding with both the San Luis Obispo Police and Sheriff Departments.

When responding to a report of sexual assault, dating violence, domestic violence, or stalking, the first responding officer will collect information about the incident and the individuals involved. If the complainant requests that their name not be shared with any other university office, including CRCO, UPD will respect that request for confidentiality and not share the complainant's name with CRCO, but will inform the complainant that UPD is required to share incident details, excluding the name of the complainant, with CRCO.

#### **B. The Office of Student Rights and Responsibilities**

The Office of Student Rights & Responsibilities (OSRR) administers the Standards for Student Conduct and collaborates with CRCO to determine the appropriate sanction for matters involving student respondents following a finding of responsibility under the Policy. We learned that CRCO and OSRR collaborate well in the sanctioning process.

### **C. Housing**

University Housing consists of a Director, five Assistant Directors, three Office Coordinators, an Inter Housing Council Advisor and Event Team Supervisor, two University Judicial Coordinators, as well as numerous Resident Advisors. University Housing employees have a duty to report and provide support to student residents who are navigating the reporting and resolution process. We learned of opportunities to further collaborate and educate the community about information that can be shared and what to expect in the resolution process.

### **D. Clery Act Responsibilities**

The Clery Director is responsible for maintaining information necessary to prepare the university's [Annual Security Report](#), and for identifying and training campus security authorities (CSAs). In order to gather data necessary for the Annual Security Report, the Clery Director reviews reports and consults with the University Police Department to determine whether they are Clery reportable. Per the university website, the Clery Director is the CRCO Director, but during our campus visit, we learned that a staff member of CRCO carries out the majority of the Clery Act responsibilities.

UPD determines whether to issue a timely warning, and when the conduct includes sexual assault, dating violence, domestic violence, or stalking, the CRCO Director is included in the determination of whether to issue a timely warning. Timely warnings are generally issued within an hour of the incident being reported.

### **E. Academic Affairs**

Academic Affairs is led by the Provost and Executive Vice President for Academic Affairs. The Provost provides guidance and support for faculty and staff in all six academic colleges, University Advising, and the Robert E. Kennedy Library. Academic Affairs intersects with CRCO on issues related to reporting requirements, including training employees who have a duty to report, responses to conduct that does not rise to the level of a policy violation, and sanctioning of faculty who are found responsible for violating the Nondiscrimination Policy.

### **F. Academic Personnel**

Academic Personnel supports faculty, staff, and administration regarding implementation of the Unit 3 Faculty Collective Bargaining Agreement, as well as the implementation of the Unit 11 Academic Student

Employee Collective Bargaining Agreement. Academic Personnel provides support to Teaching Associates, Graduate Assistants, and Instructional Student Assistants with regard to student grievances and arbitrations. The Academic Personnel team consists of the Vice President for University Personnel and Chief Human Resources Officer, the Associate Vice Provost for Academic Personnel, the Assistant Vice President for Employee and Labor Relations, 5 Analysts, and a Program Coordinator.

### **G. Employee Labor Relations**

Employee Labor Relations (ELR), a division in Human Resources, is responsible for staff discipline. ELR receives reports from CRCO when the reported conduct does not rise to the level of a policy violation, when the complainant does not want to participate in an investigation, and following a finding of responsibility in order to institute discipline. ELR and CRCO provide coordinated training for employees on issues related to reporting and process. We learned of the observation that, because CRCO and ELR are not able to share the resolution of matters more publicly, some individuals lack confidence and trust in the resolution process because of their lack of visibility into the process and outcome.

## **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. Cal Poly San Luis Obispo provides the following resources dedicated to supporting student and employee well-being.

### **A. Confidential Advocate<sup>30</sup>**

Safer is Cal Poly San Luis Obispo's prevention education and confidential advocacy resource for sexual and gender-based violence and harassment. Located within Campus Health and Wellbeing, Safer reportedly offers holistic services to the entire campus community regarding sexual and gender-based violence and harassment. The advocacy staff supports survivors of sexual and gender-based violence and harassment directly, by offering confidential crisis support and advocacy, which includes crisis intervention, accompaniments, referrals, and other services. The prevention education staff engages the campus community in awareness and prevention programming.

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<sup>30</sup> The Confidential Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

The Safer staff consists of an Assistant Director of Wellbeing, two Confidential Advocates, a Survivor Wellness Coordinator, a Prevention Specialist for Gender-Based Violence Initiatives and 12 student staff members.

### **B. Respondent Support**

The University maintains a general Party Advisor program through the Dean of Students Office, which makes advisors available to both complainants and respondents. Additionally, in the event a Title IX case proceeds to a hearing, the Chancellor's Office provides a hearing advisor to respondents if they do not already have their own advisor, as required by the federal Title IX regulations. Respondents have access to supportive measures through CRCO following a report of potential misconduct, as well as access to community-based resources including counseling and disability services.

### **C. Campus Health and Wellbeing**

Campus Health and Wellbeing consists of Health Services, Counseling Services, and Wellbeing Services, all of which are described below.

- Health Services provides medical care for currently enrolled Cal Poly San Luis Obispo students. The medical staff consists of physicians, nurse practitioners, physician assistants, a dietician, and personnel overseeing the pharmacy, laboratory, radiology, and administrative departments. Services include general health and wellbeing, eating disorder treatment, COVID-19 testing, gender-affirming care, immunization requirements, self-order STI testing, sexual and reproductive health services, and vaccinations.
- Counseling Services provides services by licensed mental health professionals in clinical and counseling psychology, marriage and family therapy, professional counseling, and clinical social work. Services are free, confidential, and available to all currently enrolled students. The Counseling Services staff consists of a Director of Counseling Services, an Associate Director of Clinical Services, three BIPOC-Focused Clinical Counselors, three Early Intervention Specialists, two Psychologists, a Licensed Marriage and Family Therapist, an Eating Disorders Treatment Coordinator & Data Specialist, a Body Positivity Coordinator, a Diversity & Multicultural Inclusion Coordinator, a Trauma Treatment Coordinator & Continuing Education Specialist, an ADHD Specialist, as well as coordinators and administrative support staff.
- Wellbeing Services provides alcohol and drug programming; basic needs programming, including food and housing needs, and oversees the Pulse and Safer programs. Pulse is a student-led health education program that promotes healthy lifestyle management. Safer, described above, serves as the University's Survivor Advocate and provides awareness and prevention programming.

#### **D. Ombuds**

The Office of Student Ombuds Services is a campus resource for all Cal Poly San Luis Obispo students who are seeking assistance in resolving any university related issue, concern, conflict, or complaint. The website provides, “All communications with the office are strictly confidential, informal, impartial, and independent. (The only exception is when there appears to be imminent risk of serious harm to self or others or issues about sexual misconduct.)” CRCO expects that the Office of Student Ombuds Services will forward reports to CRCO consistent with the Policy. We note that “issues related to sexual misconduct” is narrower than the conduct required to be reported by responsible employees pursuant to the Policy. Additionally, the brochure for the Office of Student Ombuds Services (available on the website) provides that all communications with the office are confidential except in cases of imminent risk of serious harm to self or others and omits “issues related to sexual misconduct.” In consideration of these two examples, our recommendations include ensuring that all communications related to confidentiality and employee duties to report are reviewed for consistency and clarity.

Cal Poly San Luis Obispo does not provide an ombuds service for employees.

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

Cal Poly San Luis Obispo students may seek and receive support from Safer, CRCO, Health Services, and Counseling Services, all of which are described above. In addition, students may seek and receive support through other available resources, which can be found [here](#).

#### **F. Additional Resources for Employees**

Cal Poly San Luis Obispo employees may seek and receive support services from Safer, CRCO, and employee assistance programs, which provides counseling and life management support to Cal Poly San Luis Obispo employees. A list of other available resources for employees can be found [here](#).

#### **G. Additional Resources for Faculty**

Additional relevant faculty governing bodies include:

- The Academic Senate, which is the faculty governing body of Cal Poly San Luis Obispo representing approximately over 1,300 faculty members. This legislative body is comprised of approximately

50 elected faculty representatives, four administrators, and two students. The Academic Senate formulates and evaluates policy and procedures on academic, fiscal, and personnel matters.

- The Faculty Affairs Committee, which is the advisory body of the Academic Senate on faculty policy and its administration and procedures. The scope of faculty procedures and policies coming within its purview includes standards and criteria concerning appointment, promotion, tenure, academic freedom, leaves of absence, retention, professional relations and ethics, research, grievance, layoff procedures, and lecturers' rights and responsibilities.

We learned that Cal Poly San Luis Obispo faculty appear to understand and abide by their duty to report potential policy violations to CRCO. According to CRCO, most of the reports their office receives come from faculty and staff who are fulfilling their duties to report.

We heard specific concerns among faculty about the former Chancellor exercising his retreat rights and joining the Cal Poly San Luis Obispo faculty. This has led to recent community activism and, in November 2022, resulted in an Academic Senate resolution calling on the former Chancellor to turn down his faculty appointment.

#### **VIII. Prevention, Education, Professional Development, Training and Awareness<sup>31</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>32</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>33</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

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<sup>31</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>32</sup> See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

<sup>33</sup> See Attachment C: Confidential Sexual Assault Victim's Advocates.



developing and providing campus-wide awareness and outreach activities, possibly including prevention activities.<sup>34</sup>

This level of coordination and oversight is not occurring at Cal Poly San Luis Obispo, nor at most universities across the system.

CRCO oversees and provides training on the Nondiscrimination Policy and procedures for the Cal Poly San Luis Obispo community; Safer provides prevention and awareness programming for the Cal Poly San Luis Obispo community.

#### **A. Training**

CRCO oversees training on the Policy, including the definitions of prohibited conduct and consent, reporting responsibilities, and the resolution process. Cal Poly San Luis Obispo provides the systemwide required online training and provides tailored training for specific constituents including Athletics, Fraternity and Sorority life, Resident Assistants, and employees with reporting responsibilities. Currently, most training is delivered by the Associate Director, who recently developed a spreadsheet to track metrics related to training, including the topic(s), the audience, and the frequency of that training for that audience must occur. Our recommendations speak to building out a more robust training program, with a dedicated training specialist, in an effort to increase community awareness of CRCO's role, the resolution processes, and available resources.

#### **B. Students**

All students enrolled in courses at Cal Poly San Luis Obispo are required to take the online Title IX Sexual Violence Prevention Training every academic year. Training at Cal Poly San Luis Obispo exceeds the minimum required standards and goes beyond the online modules. For example, there is mandatory peer-to-peer prevention and education programming presented at the Week of Welcome and the University

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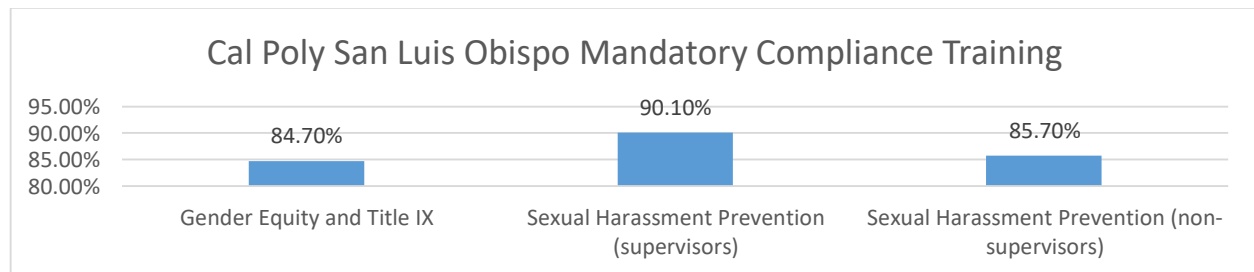
<sup>34</sup> *Id.* Under Attachment C, all awareness outreach activities must “comply and be consistent with University policies” and the Advocate is required to “partner and collaborate with the Title IX Coordinator to ensure the activities comply with CSU policy and are consistent with campus-based practices.”

supports a bystander intervention program through the “WITH US Center for Bystander Intervention at Cal Poly San Luis Obispo.”

### C. Employees

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

The systemwide Learning and Development Office in the Chancellor’s Office hosts these online modules, which are provided by an external vendor, on its systemwide employee learning management system. The Learning and Development Office tracks employee completion of these required programs. The below chart, provided by the Chancellor’s Office, shows the completion percentage for each university for the 2022 calendar year:<sup>35</sup>



CRCO’s website houses the links to the above required employee training as well as a “learning transcript” of completed trainings for each employee’s reference.

In our community engagement, faculty leadership reported feeling adequately trained to receive student disclosures. Faculty made positive reference to the voluntary training opportunities offered by Safer.

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<sup>35</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.

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

#### **D. Prevention and Awareness Programming**

Safer provides robust prevention and awareness education programming for students, faculty, and staff, which is outlined on their webpage. Safer employs a dedicated prevention specialist, whose role is to develop and provide prevention and awareness programming. The programming appears to be effective, as we learned and observed that the student population has a high level of awareness of issues related to discrimination and harassment.

Recently offered prevention and awareness programming from Safer for faculty and staff includes:

- Supporting Survivors of Gender- and Power-Based Violence: a one-hour workshop on how to best support students and colleague who have experienced sexual assault, dating or domestic violence, stalking, harassment, or exploitation.
- Safer Action Planning Workshop for Staff and Faculty: a two-hour workshop aimed at helping faculty and staff members grow as leaders in gender and power-based violence prevention. The workshop delves into the root causes of gender and power-based violence and explores risk and protective factors for sexual violence perpetration.
- Trigger/Content Warnings: a two-hour discussion on whether and when to use trigger and content warnings in the classroom.

In addition to regular gatherings for crafts, trivia, origami, and painting events, last academic year Safer offered the following prevention and awareness programming for the entire community:

- June 1, 2023: a presentation titled, “American Hookup: the New Culture of Sex on Campus” from Dr. Lisa Wade
- May 25, 2023: an education series titled, “Life Saving Care: How Access Saves Survivors”
- May 19, 2023: Poetry Night with Safer and Lumina Alliance
- April 27, 2023: Take Back the Night
- April 18, 2023: A Chat About Choice
- April 12, 2023: therapy dogs available on Dexter Lawn
- October 18, 2023: lunch & learn on “How to (Healthily) Argue”
- October 11, 2022: lunch & learn on “The Sex Ed you Didn’t Get in High School”
- October 5, 2022: Bed and Boundaries workshop
- October 4, 2022: lunch & learn: Violence Prevention, Public Health & Social Justice

CRCO and Safer reported collaborating on policy training and prevention education programming for the community.

## IX. Other Conduct of Concern

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

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

Cal Poly San Luis Obispo is taking notable steps to address *other conduct of concern*, including incidents of bias, microaggressions, and other conduct that does not rise to the level of a policy violation under the Nondiscrimination Policy. To that end, Cal Poly San Luis Obispo has a Bias Incident Report Team that provides support and resources to those who report and or witness acts of bias. Individuals can submit an online report that is reviewed by BIRT. If the report involves conduct prohibited under the Nondiscrimination Policy, the report will be referred to CRCO. BIRT's response generally includes non-mandated educational conversations with the individual. We learned that university leaders are engaging in intentional efforts to incorporate bias education and prevention in an effort to be more proactive and less reactive. We understand that the working group includes the Dean of Students Office, Housing, and OUDI and that the goals are to be more engaged in taking the temperature of campus climate and providing for a more global or expansive view of campus climate. For reasons that are unknown, CRCO was excluded from the working group. We understand that the overarching goal is to be less responsive and more educational, proactive, and preventative. We also understand that the working group will communicate with BIRT regarding patterns, trends, and types of reported conduct.

We heard from CRCO and campus partners that CRCO often shares with Human Resources and/or faculty deans any reports or findings regarding conduct that does not rise to a policy violation but is otherwise disruptive to the working environment. Faculty and human resources leadership shared anecdotal accounts of instances in which they engaged or oversaw conversations with employees related to such conduct. We also learned that there are structures that allow CRCO to engage BIRT in the response process when CRCO determines the conduct does not rise to a policy violation. Routine referrals for *other conduct of concern* are included in the recommendations.

## **X. Recommendations**

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

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

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

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

1. Work with the Chancellor's Office to develop a project plan for addressing gaps and implementing recommendations
2. Share existing budget line information with the Chancellor's Office, including historic and anticipated annual fees for external investigators, hearing officers, and other Title IX/DHR related resources, as well as budget line information related to the confidential campus advocates, prevention and education specialists, and respondent resources (recognizing that these resources are typically outside of the Title IX/DHR budget)
3. Map functions within the Title IX/DHR program to ensure sufficient personnel to cover all core functions, including: intake and outreach, case management, investigations and hearings, informal resolution, sanctions and remedies, prevention and education, training, data entry and analysis, administrative tasks, and additional resources to support legally-compliant, effective Title IX/DHR programs, as well as the essential care side of campus responses
  - 3.1. Consider the need for expanding staffing, to include, for example, the Assistant Vice President/Title IX Coordinator/DHR Administrator, an Associate Director/Deputy Coordinator, an Assistant Director/Investigator, two or three Care Managers/Hearing Coordinators, a Training and Education Specialist, one or two or more Investigators, and three Analysts/Administrative Support personnel.
4. Based on benchmarking and recommendations from the Chancellor's Office, identify recurring baseline (or line item) funding (both source and amount) for the Title IX/DHR program
5. Work with the Chancellor's Office to implement an enterprise-level case management system and develop protocols for consistent collection and retention of data

6. Ensure an adequate supervisory model that includes a routine cadence of supervisory meetings, guidance about how to ensure effective oversight and accountability measures, an appropriate level of detail for review, development, integration and tracking of decision-making frameworks, and balancing implementers' independence and autonomy with the need to identify and elevate critical issues and concerns about safety/risk
7. Commit to the consistent investment in professional development and continuous learning for Title IX and DHR professionals and senior leaders who oversee the Title IX/DHR program (CLEs, conferences, system training, etc.)
8. Identify a sustainable model to provide respondent support services
9. Directly address the breakdown in partnership and trust gaps that have impacted and eroded effective coordination and disrupted the continuity of care for students
  - 9.1. Facilitate a communication mediation or a facilitated policy/procedure retreat – by leadership or external subject matter expert – to directly address the CRCO and Safer concerns and identify a consistent approach to recurrent process issues

**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. In recognition that CRCO has a current cross-divisional team that meets every other week to discuss reports and formal complaints, the Title IX Coordinator/DHR Administrator, in conjunction with the Chancellor's Office, should reexamine the current model and update membership by identifying 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 MDT is trained to treat information confidentially, with sensitivity, and consistent with state and federal privacy laws



- 1.5.6. The MDT should engage in consultation to inform decisions, including those about emergency removal, administrative leave, the reasonable availability of supportive measures, and questions about the scope of the university's education program or activity
- 1.5.7. The MDT meetings should serve as natural opportunities for documenting the factors considered in reaching key decisions and documenting what information was known, when it was known, by whom it was known, and what impact it had on the Title IX Coordinator/DHR Administrator's analysis
- 1.5.8. The MDT should facilitate the development of shared fluency and knowledge among key university partners related to the legal and regulatory requirements, policy frameworks, and considerations related to care and informed and equitable processes
- 1.6. Develop tools for consistent, informed, effective documentation and case management
  - 1.6.1. For quality control, develop a case opening and closing checklist to ensure that all relevant documents, correspondence, and information are captured and preserved electronically
  - 1.6.2. To the extent feasible, seek to maintain data in a usable and searchable electronic format for efficient decision making, analysis and review
  - 1.6.3. Migrate all historical DHR reports and Title IX reports into the enterprise-level case management system, if not already included
  - 1.6.4. Develop periodic reviews for quality assurance
- 1.7. Oversee investigations for quality and consistency of prompt and equitable processes
  - 1.7.1. Establish a protocol to ensure the timeliness of investigations, with routine quality control mechanisms throughout investigation process
  - 1.7.2. Develop quality control processes for monitoring active investigations for thoroughness and timeliness and ensure timely communications to parties throughout the investigative process (e.g., calendar internal 30-day, 60-day and 90-day alerts to prompt the investigator or case manager to make outreach to the parties)
  - 1.7.3. Ensure each report has sufficient review by the Title IX Coordinator/DHR Administrator and University Counsel (for legal review of sufficiency and adherence to policy)
2. Continue to evaluate barriers to reporting and engagement at the university level, with aggregation of data and advice and guidance by the Chancellor's Office
3. Review and revise tone, content, and format of reporting forms and other template communications to soften the legal tone and balance the support arm of the office
4. Ensure that all communications related to confidentiality and employee duties to report are reviewed for consistency and clarity

5. Review the current post-Title IX/DHR disciplinary processes for faculty and staff to ensure promptness, equity, and informed communication
  - 5.1. Ensure the Title IX Coordinator/DHR Administrator remains engaged in any disciplinary processes, including sanctions and appeals, until final
  - 5.2. Ensure that decisions about negotiated settlements are supported by a careful and coordinated review by all relevant campus and system level administrators
6. Develop and implement a process to routinely collect post-resolution feedback from the parties and all impacted individuals
7. Invest in continued and consistent professional development programming for all CRCO staff in team format to ensure consistent understanding of the concepts and application of the concepts
8. To improve information sharing with supervisors, develop protocols for cases involving employees that address: 1) whether and when an employee respondent's supervisor should be informed of a report of potential prohibited conduct, 2) what information should be shared with the supervisor including any information that should *not* be shared, 3) whether and when the supervisor should be consulted or informed about supportive measures and/or administrative leave, 4) what information, if any, should be shared with the supervisor during the investigation, including delays and good cause reasons for delays, and 5) whether and when the supervisor should be informed of the outcome of a matter (written determination or Informal Resolution Agreement).
9. Establish the expectation that any concerns about policy, process, or practice observed by confidential advocates be addressed directly with responsible administrators and systemwide subject matter experts to facilitate collaborative efforts to improve the overall institutional response

### **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 quarter 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

- 2.1.1. Share data and information with campus stakeholders about the role and outcomes of the work of its new Care Manager position
- 2.1.2. Identify ways to increase awareness about the Care Manager's role, including sharing data about the number of individuals served each year, what kinds of supportive measures are most often requested and accessed, and the on- and off-campus resources they can provide.
- 2.2. Differentiate and educate about the difference between confidential resources and reporting options
- 2.3. Partner with campus communications professionals to create and promote effective marketing materials, including through the use of professional branding that can be used across platforms (print, web, social media, imprinted on giveaway products)
3. Improve the Title IX/DHR website and other external-facing communications
  - 3.1. Review and revise web content, across all relevant webpages, for clarity, accuracy, and accessibility
  - 3.2. Ensure that web content includes: photographs and contact information for Title IX/DHR staff, Notice of Non-Discrimination, a link to the Nondiscrimination Policy, an overview of procedural and resolution options (with accessible graphics), how to make a report (to Title IX/DHR or UPD), on and off campus confidential resources, the difference between confidentiality and privacy, supportive measures, employee reporting responsibilities, an FAQ, and prevention and education programming
  - 3.3. Update the Notice of Non-Discrimination to include other protected statuses under the Nondiscrimination Policy
  - 3.4. Gather, evaluate, and update all existing informational materials, web resources, posters/flyers, social media information, and other public-facing communications about the Title IX/DHR program to ensure that those materials:
    - 3.4.1. Reflect the current staffing and structure of the office, the current CSU Nondiscrimination Policy and resolution processes, and current information about on- and off-campus resources including confidential resources
    - 3.4.2. Are written in clear language, accessible (from both a disability perspective and a reading comprehension perspective), and consider strategic placement of newly developed print materials in areas frequented by students, staff, and faculty
  - 3.5. Use standardized email addresses and/or materials that are able to be updated quickly (e.g., use of QR codes that point to dynamic webpages that can be updated; using, for example, "TitleIX@[name of university].edu," so that print materials do not become outdated if there is a personnel change, etc.)
4. Develop an expanded annual report with meaningful information/data

5. Develop standing committee of representative student, faculty, and staff ambassadors to support and facilitate institutional efforts to more effectively communicate with campus constituents
6. Leverage community interest on the part of students, faculty, and staff by inviting them to provide input into template communications, annual community messaging and report-outs, responsible employee training content, flyers and posters, and other communications
7. 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, 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
  - 3.2. The role of the coordinator should be evaluated in the context of Safer's designated Prevention Specialist for Gender-Based Violence Initiatives, who oversees sexual violence prevention programming for the campus and manages a team of student staff who serve as peer educators
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 Non-Discrimination, reporting options and resources
7. Ensure that programming is coordinated, communicated and tracked
8. Develop a university website dedicated to prevention and campus programming that is kept current, facilitates distribution of prevention and education materials, and incorporates the opportunity for feedback and recommendations
9. Identify social media platforms and other vehicles for distributing programming information on a regular basis
10. In conjunction with the Chancellor's Office, expand professional development and training for faculty and staff, including senior leadership, deans, department chairs, managers and leads on Title IX and DHR; respectful and inclusive environments; conflict resolution; bystander intervention strategies; effective leadership and supervision; and reporting responsibilities under Title IX, the Clery Act, and CANRA

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

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

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

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

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

**Appendix I**  
**Metrics: Campus Demographics and Population<sup>36</sup>**

The below chart reflects key metrics and demographic information for Cal Poly San Luis Obispo.

<b>California State University San Luis Obispo</b>			
<b>Location Information</b>			
<b>Location:</b> San Luis Obispo, CA (pop. 48,341) <sup>37</sup>	<b>County:</b> San Luis Obispo County (pop. 282,013) <sup>38</sup>	<b>Locale Classification:</b> Small Suburb <sup>39</sup>	
<b>University Information</b>			
<b>President:</b> Jeffrey D. Armstrong Ph.D., (February 2011-present)			
<b>Designations:</b> N/A			
<b>Students – Enrollment Data<sup>40</sup></b>			
Total Number of Students		<b>22,051</b>	
<b>State-Supported</b>		<b>Self-Supported</b>	
Undergraduates	20963	Undergraduates	90
Grad & Post Bac Students	815	Grad & Post Bac Students	183
<b>Student Ethnicity<sup>41</sup></b>			
<b>Overall (includes State- and Self-Supported)</b>			
White	51%		
Hispanic / Latino	21%		
Asian	14%		
Two or More Races	8%		
Race and Ethnicity Unknown	3%		
International Student	2%		
Black / African American	1%		
Native Hawaiian / Other Pacific Islander	<1%		
American Indian / Alaska Native	<1%		
<b>State-Supported (21,778 students)</b>		<b>Self-Supported (273 students)</b>	
White	51%	White	50%
Hispanic / Latino	22%	Asian	18%
Asian	14%	Hispanic / Latino	13%

<sup>36</sup> Unless otherwise noted, Cozen O'Connor obtained data concerning Cal Poly San Luis Obispo demographics, populations, Title IX and DHR staffing, operations and caseload from California State University and Cal Poly San Luis Obispo sources. This report will be updated to reflect material inaccuracies brought to our attention on or before September 15, 2023.

<sup>37</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/sanluisobispocitycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>38</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/sanluisobispocountycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>39</sup> Defined as a territory outside a Principal City and inside an Urbanized Area with population less than 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>40</sup> California State University Enrollment Data, Fall 2022, Cal Poly San Luis Obispo: [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>41</sup> *Id.* This data includes students at the undergraduate, graduate, and post-baccalaureate levels.



Two or More Races	8%	International Student	8%
Race and Ethnicity Unknown	3%	Two or More Races	6%
International Student	1%	Race and Ethnicity Unknown	4%
Black / African American	1%	Black / African American	<1%
Native Hawaiian / Other Pacific Islander	<1%	Native Hawaiian / Other Pacific Islander	<1%
American Indian / Alaska Native	<1%	American Indian / Alaska Native	<1%
<b>Other Student Demographics<sup>42</sup></b>			
<b>Overall (includes State- and Self-Supported)</b>			
First in Family to Attend College	11%		
% students who are traditionally underrepresented <sup>43</sup>	22%		
% of undergrads who were Pell Grant recipients <sup>44</sup>	17%		
% of students who live on campus <sup>45</sup>	36%		
% undergrads who are in a fraternity or sorority <sup>46</sup>	20%		
4-year graduation rate for first-time FT freshmen <sup>47</sup>	61.2%		
<b>State-Supported (21,778 students)</b>		<b>Self-Supported (273 students)</b>	
Average Age	20	Average Age	25
Sex <sup>48</sup>	49% F; 51% M	Sex <sup>49</sup>	42% F; 58% M
First in Family to Attend College	11%	First in Family to Attend College	8%
% traditionally underrepresented <sup>50</sup>	22%	% traditionally underrepresented <sup>51</sup>	15%
<b>Instructional Faculty<sup>52</sup></b>			
Total # of faculty	1,309.00		
Tenure-track	54.1%		
Lecturer	45.9%		
% full-time <sup>53</sup>	68.27%		
% part-time	31.73%		
Leadership body	Academic Senate <sup>54</sup>		
<b>Staff<sup>55</sup></b>			
Total # of staff	1,440		

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

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

<sup>44</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>45</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>46</sup> See <https://greeklife.calpoly.edu/fsl-office-overview>.

<sup>47</sup> California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with Cal Poly San Luis Obispo selected in drop-down menu. See <https://www.calstate.edu/data-center/institutional-research-analyses/Pages/graduation-and-success.aspx>. This data reflects the four-year graduation rate for first-time full-time freshmen entering CSUF during the Fall 2018 (most recent complete 4-year term available).

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

<sup>49</sup> *Id.*

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

<sup>51</sup> *Id.*

<sup>52</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>53</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>54</sup> Cal Poly San Luis Obispo Academic Senate. See <https://academicsenate.calpoly.edu/>

<sup>55</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.

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% full-time	98.40%
% part-time	1.60%
<b>Collective Bargaining Units</b>	
Unit 1	Cal. Fed. of American Physicians and Dentists (UAPD)
Units 2, 5, 7, 9	California State University Employees' Union (CSUEU)
Unit 3	California Faculty Association (CFA)
Unit 4	Academic Professionals of California (APC)
Unit 6	Teamsters, Local 2010 – Skilled Trades
Unit 8	Statewide University Police Association (SUPA)
Unit 11	Academic Student Employees (UAW)
<b>Athletics<sup>56</sup></b>	
NCAA Division	I
NCAA Conference	Big West <sup>57</sup>
Number of sponsored sports for '22-'23 academic year	21
Number of student athletes <sup>58</sup>	624

<sup>56</sup> NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=90>, except where noted otherwise.

<sup>57</sup> All sports are in the Big West Conference with the exception of the following: Football (Big Sky Conference), Men's & Women's Swimming and Diving (Mountain Pacific Sports Federation), Men's Wrestling (PAC-12 Conference), and Women's Indoor Track (Independent).

<sup>58</sup> See U.S. Department of Education, Equity in Athletics Data Analysis, at <https://ope.ed.gov/athletics/#/>, data for California State University San Luis Obispo. 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 provide 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.

At Cal Poly San Luis Obispo, we received 926 responses<sup>59</sup> from students, faculty, staff, administrators, and others as follows:

Constituency	Number of Responses
Undergraduate Student	479
Graduate Student	39
Staff	188
Administrator or Manager	41
Faculty	203
Other	23

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:

- Recent hiring and appointments eroding community trust. Survey respondents explained that the hiring of a professional formerly employed at a university with a high-profile sexual abuse scandal eroded community trust. Many responders also noted that the university had hired the former CSU Chancellor whose response to reports of sexual harassment at Fresno State was widely criticized.
- Inclusion and respect received a low score. Survey respondents stated that campus was not welcoming or inclusive for disabled people, people of color, and LGBTQIA+ individuals. Although this score was not the worst of all CSU universities, it was notably low.
- Free Speech Wall. Several survey respondents described an annual event in which the university put up a “free speech wall” and permitted students to write on it. This was a contentious activity, and many survey respondents noted that it ultimately was covered in hate speech and other inappropriate content.
- @Shadesofcalpoly Instagram page<sup>60</sup> reports discrimination on campus. This Instagram page contains descriptions of discrimination and violence on campus, from racism and

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<sup>59</sup> Some individuals identified as two or more categories (e.g., graduate student and staff).

<sup>60</sup> We understand that this Instagram page is private, unaffiliated with the university, and not subject to the control of Cal Poly San Luis Obispo.

antisemitism to sexual assault. Some survey respondents noted that they learned about Title IX issues this way, and that it made them trust the university less.

- ADA accommodations. Some survey respondents described having to advocate strongly to receive disability accommodations, and some reported retaliation for doing so.
- Title IX viewed as protecting the university. As is the case in many CSU institutions, responders at Cal Poly San Luis Obispo stated that they believed that the Title IX office existed to serve the university's interests rather than its stakeholders' interests.
- Training materials ignored and not taken seriously. Survey respondents stated that the training materials that they received were not engaging and often ignored.
- Policy viewed by the stakeholders as "elusive" and not easily understood. Survey respondents who used the Title IX Policy found it challenging to read and understand.
- Understaffing of Title IX office resulting in long delays and perceived under-investigation of matters. Many survey respondents described excessive delays in having their matters investigated and attributed the delay to under-staffing. One even stated that the office told them that there was no bandwidth to investigate a case at all.
- Counseling center turning away students and providing inadequate assistance. Several survey respondents stated that they had experienced, or knew someone who had experienced, being turned away by campus counseling. Some survey respondents described being turned away while in crisis.
- Safer is a trusted resource to many. Survey-wide, respondents were very pleased with Safer as a resource and felt very comfortable recommending and using it.

### **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 Cal Poly San Luis Obispo San Luis Obispo University, we reviewed the University's annual Title IX reports for years 2018-2019 through 2021-2022. These annual reports are posted online on CRCO's website.<sup>61</sup> The annual reports provide data regarding the reports of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, Stalking, and – in 2021-2022, Sexual Exploitation and Sexual Harassment – made to CRCO each year. The annual reports reflect the number of reports received, disaggregated by the type of conduct and whether the respondent was a student, employee, or third-party, unknown, or unidentified. Beginning in 2019-2020, the annual reports also reflect procedural outcomes, including:

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

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

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

In evaluating this data, we note that the CSU system currently lacks sufficient tools, processes, and practices to support consistent and reliable data-gathering across universities. As currently structured, the data-gathering system has significant challenges: it is reliant on self-reporting by Title IX staff at the university level based on the nature and manner in which they keep documentation; across the system, the universities do not use consistent documentation and recordkeeping systems and practices to

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<sup>61</sup> <https://crco.calpoly.edu/content/title-ix> (last visited July 16, 2023).

maintain their campus's data; the structure and questions posed by the Chancellor's Office to request data for the annual Title IX report have changed over time and not all 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 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 characteristics covered by the Nondiscrimination Policy. In addition, as noted above, until the 2021-2022 academic year, the annual Title IX reports did not include data regarding reports of Sexual Exploitation or Sexual Harassment. For the above reasons, under the current process for systemwide data-gathering, it is difficult to draw precise conclusions about campus Title IX functions or make meaningful comparisons with other CSU institutions from the data alone. That being said, we have confidence that the data, while imperfect, provides sufficient reliability to extrapolate key themes and observations.

In presenting the below data, we note that some 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 university. 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. Cal Poly San Luis Obispo verified the accuracy of the 2021-2022 annual Title IX report via email on May 4, 2023.

Finally, we recognize the significant impact of the global pandemic on colleges and universities across the country, including Cal Poly San Luis Obispo. 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 Civil Rights & Compliance 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>62</sup>

	2018-2019	2019-2020	2020-2021	2021-2022
Reports of Sexual Misconduct/Sexual Assault	No data available	No data available	84	141
Reports of Dating/Domestic Violence			19	22
Reports of Stalking			41	95
Sexual Exploitation*			-	12
Sexual Harassment*				112
<b>Total # of Reports in Above Categories</b>	<b>117</b>	<b>148</b>	<b>144</b>	<b>382</b>
* This data was not requested by the Chancellor's Office prior to the 2021-2022 academic year.				

#### B. Respondents' Roles<sup>63</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	57	68	60	201
Reports in which the Respondent is an employee	4	5	9	27
Reports in which the Respondent is a third-party	10	19	26	43
Reports in which the Respondent is unknown	46	56	49	105
Reports in which the Respondent is unidentified				6
<b>Total # of Reports in Above Categories</b>	<b>117</b>	<b>148</b>	<b>144</b>	<b>382</b>

<sup>62</sup> This data does not include reports of incidents that fail to meet the threshold of Title IX misconduct.

<sup>63</sup> Respondent Role totals may differ from Reported Conduct totals due to multiple allegations for one Respondent.



**C. Case Outcomes<sup>64</sup>**

The below data reflect the collective outcomes of reports to the Civil Rights & Compliance Office.<sup>65</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	113	143	68	221
Reports in which the Complainant’s identity was unknown to the Title IX Office			14	45
Reports in which the Complainant requested supportive measures or resources only			25	50
Reports that resulted in other outcomes (except formal investigation)			33	30
Reports that resulted in a formal investigation*	8	5	2	8
<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 doesn’t capture investigations that were substantially completed, but discontinued at the request of the complainant, because the case was otherwise resolved, or because the matter was dismissed based on mandatory/discretionary grounds under Title IX and university policy.</p>				

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<sup>64</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>65</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 percentage of outcomes.