

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

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San Diego State University

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July 17, 2023

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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 San Diego State University (San Diego Report). The San Diego State review was led by Gina Maisto Smith and Dylan Davison. The San Diego 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 Diego 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.

San Diego State University (San Diego State) is located in San Diego, CA. It has a student population of approximately 37,510, 22% of whom live on campus, and a workforce of approximately 3,898 staff and faculty. An overview of the university's metrics and demographics is included in Appendix I.

## **II. Overview of Engagement**

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

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

With respect to San Diego State, Cozen O'Connor conducted a three day onsite campus visit from November 1 to 3, 2022 as well as multiple additional virtual follow-up meetings conducted over Zoom. In total, Cozen O'Connor conducted more than 35 meetings with more than 45 Title IX and DHR professionals, administrators, and other key campus partners, some of whom we spoke to on multiple occasions. These meetings included interviews with the following offices and individuals (identified by role):

- University President
- Senior Associate Vice President, Administration
- The Center for Prevention of Harassment and Discrimination
  - Title IX Coordinator/DHR Administrator
  - Title IX/DHR Investigator
- The Center for Student Rights and Responsibilities
  - Director/Deputy Title IX Coordinator
  - Title IX/DHR Investigator
- Provost
- Faculty Affairs
  - Assistant VP, Academic Labor
- Student Affairs and Campus Diversity/Dean of Students
  - Vice President, Student Affairs and Campus Diversity and Chief Diversity Officer
  - Assistant VP, Student Affairs and Campus Diversity and Dean of Students
  - Associate VP, Student Affairs and Campus Diversity
  - Assistant Dean of Students for Student Life
  - Senior Associate VP for Student Affairs and Campus Diversity
  - Associate Chief Diversity Officer for Outreach and Success
  - Student Ombudsman
- Student Health Services
  - Director
  - Medical Director
- Counseling and Psychological Services
  - Director, Counseling and Psychological Services
  - Clinical Director, Counseling and Psychological Services
- Well-Being and Health Promotion
  - Student Life Health and Safety Coordinator
  - Health Promotion Specialist
- Confidential Victim Advocate
- Athletics
  - Senior Associate Athletic Director
  - Executive Associate Athletic Director/Deputy Title IX Coordinator
  - Associate Athletic Director of Diversity, Equity, and Inclusion

- Assistant Athletic Director, Student-Athlete Development Coordinator
- Housing and Residential Life
  - Director, First Year Residential Communities
  - Associate Director, Residential Education Wellness
- Associate VP, Public Safety and Community Empowerment
- University Police Department
  - University Police Chief
  - Assistant Chief of Police
  - Captain
  - Lieutenant(s)
  - Sergeant
  - Detective(s)
  - Police Records Supervisor
- Clery
  - Clery Director
  - Clery Coordinator
- Center for Human Resources
  - Director
  - Associate Director, Labor and Employee Relations
- Identity Centers/Affinity Groups/Community Centers
  - Director, Women's Resource Center
  - Director, Pride Center
  - Assistant Director, Native Resource Center
  - LatinX Resource Center

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

During our campus visit, Cozen O'Connor held two open forums, one for faculty (10+ attendees), and one for students (10+ attendees). We also met with the Associated Students leadership via Zoom (6 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 1,314 responses to the survey from San Diego State 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 and Function of the Center for Prevention of Harassment and Discrimination:** The Center for the Prevention of Harassment and Discrimination (CPHD) carries out San Diego State's Title IX and DHR programs. CPHD is responsible for responding to reports of discrimination and harassment, providing supportive measures to individuals reporting and responding to such reports, conducting investigations and hearings, facilitating informal resolution agreements, providing training for students and employees, and overseeing prevention and awareness programming. In light of these significant responsibilities, CPHD has an insufficient infrastructure required to support its functions and is under resourced to carry out its myriad roles. CPHD could benefit from additional team members, notably administrative support, an experienced investigator, and a prevention and education coordinator. This would allow CPHD to strengthen its internal processes, especially with respect to intake and outreach. CPHD should also formalize intake, outreach, and the provision for supportive measures, and separate these functions from investigative responsibilities. This will elevate the care elements of compliance in response to reports. Those care elements should be further supported by expanding resources for impacted parties by including an additional confidential advocate. We observed mutual respect and organic collaboration between CPHD and campus partners. Despite this strength, CPHD's processes for information-sharing would benefit from multidisciplinary coordination, enhanced communication, and better documentation and tracking. We recommend San Diego State create a formal multidisciplinary team (MDT) that would meet on a regular basis to discuss all incoming student, staff, and faculty reports related to Title IX and DHR, and that CPHD conduct an internal and comprehensive mapping exercise of their internal processes to identify efficiencies and process gaps and prioritize timeliness and effective communication.

**Prevention and Education:** Many campus partners engage in providing prevention and education programming at San Diego State. For example, the Office of Well-Being and Health Promotion provides programming beyond the CSU's required online modules,



including programs for fraternity and sorority members, a Peer Health Educator certification and presentations covering sexual violence prevention, and extensive programs for student-athletes, including for-credit programming. The Women’s Resource Center offers a certification program called, “The Brave Project”, which provides education on sexual assault prevention, resources, and support through “a holistic social, feminist, and trauma-informed lens.”<sup>2</sup> As compared to other CSU universities, the opportunities for training and education for students at San Diego State are relatively robust. However, from our observations, there were fewer opportunities for training, education, and professional development provided to faculty and staff than for students. As with all of the CSU universities, we recommend San Diego State engage in more strategic planning and resourcing, including identifying a dedicated prevention and education coordinator and forming a campus Prevention and Education Oversight Committee to provide a holistic and coordinated approach to required and discretionary sexual and interpersonal violence prevention as well as training related to preventing and addressing discrimination and harassment.

**Responding to *Other Conduct of Concern*:**<sup>3</sup> San Diego State 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. We also learned about concerns, particularly from faculty, that *other conduct of concern* is underreported and that ineffective institutional responses have allowed it to continue unchecked for years. Faculty shared concerns about microaggressions and potential bias incidents, reflecting that the administrative structures were insufficient to provide consistent and responsive

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<sup>2</sup> <https://sacd.sdsu.edu/womens-resource/the-brave-project>

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

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

action, which have led to perceptions by students, staff, and faculty that there is a lack of accountability. San Diego State has sought to address *other conduct of concern* through Inclusive San Diego State, which promotes voluntary restorative justice and other conflict resolution processes. We recommend that San Diego State work closely with the Chancellor's Office to develop a formal process to address reports of *other conduct of concern*. In developing this formal process, attention should be paid to strengthening and expanding competencies regarding conflict resolution, restorative justice, and other remedial responses. We recommend San Diego State build on the work of Inclusive San Diego State to support these efforts and expand the suite of resources already available at the University to formalize a triage and review process that ensures appropriate analysis, documentation, informed and caring communications, response protocols, and tracking.

**Visibility, and Trust Gap:** While CPHD professionals have appropriate subject matter expertise, experience, and training, there is a disconnect in their efforts and how those efforts are received by campus constituents. This in part, is due to a lack of resources that limit the staff's capacity. Further, the campus perception of CPHD is marred by recent historical experiences, including a high-profile matter involving members of the football team. To address these concerns, we recommend taking steps to increase the awareness, visibility, and connectivity of CPHD to campus constituents served. We recommend that CPHD revamp its website. Additionally, we recommend that the university launch an awareness campaign to educate the university about CPHD, its purpose and function, and resources available through CPHD and the university's multidisciplinary partners. In addition, given the gaps in awareness reported to us, as well as the issues of distrust, in-person engagement and coordination with campus constituents is critical to shifting perception and building trust.

#### **IV. The Center for the Prevention of Harassment and Discrimination**

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

The [Center for the Prevention of Harassment and Discrimination](#) (CPHD) reviews and investigates all complaints involving allegations under the [CSU Policy Prohibiting Discrimination, Harassment, Sexual](#)

[Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#). In addition to responding to reports, CPHD provides a wide-range of sexual misconduct and sexual harassment prevention education trainings to the San Diego State community. CPHD sits within the Business and Financial Affairs Division and the Title IX Coordinator reports to the Senior Associate Vice President for Administration.

CPHD and the Center for Student Rights and Responsibilities (CSRR) divide the responsibility to investigate Title IX complaints, with CSRR addressing student respondent cases and CPHD addressing non-student cases. However, from our observations there is no written, or articulable protocol that determines which office addresses complaints in hybrid cases that have unique combinations of faculty, staff, students, or student employees.

San Diego State's Title IX/DHR staff consists of a Title IX Coordinator/DHR Administrator, two Deputy Title IX Coordinators, two Investigators and an Equity and Compliance Specialist, divided between CPHD and CSRR. The Director of CPHD also serves as the Title IX Coordinator and the DHR Administrator. One additional Investigator (handling both Title IX and DHR complaints) sits within CPHD. CSRR, responsible for student discipline, houses a deputy Title IX Coordinator and a Title IX/DHR Investigator. An additional Deputy Title IX Coordinator sits within Athletics and reports up to the Executive Director of Athletics, not the Title IX Coordinator.

The Title IX Coordinator, the Deputy, and the Investigators share the duties of conducting intake meetings with complainants, managing the provision of supportive measures for parties, and conducting investigations for cases that proceed to investigation. In certain circumstances, the Title IX Coordinator engages external investigators. The Equity and Compliance Specialist supports CPHD and acts as a case manager. The Title IX staff maintain their own records in Maxient, a records management system which CPHD recently adopted.

In its current iteration of staffing, the CPHD structure is relatively nascent. While both the Title IX Coordinator/DHR Administrator and the Investigator who sit in CPHD have legal backgrounds and prior Title IX experience at other universities, both have only served in their roles at San Diego State for approximately two years. Further, the Title IX Investigator who sits in CSRR started in their role approximately one year ago. Finally, the Director of CSRR is also the Deputy Title IX coordinator for student cases and has been at the university for a significant amount of time in a variety of roles and divisions.

Although there is now stability in terms of leadership, the Title IX team across both offices is relatively new to fulfilling these functions at San Diego State and presents some challenges in consistent intake and investigative oversight that must be provided by the Title IX Coordinator.

Additionally, university constituents and administrators reported there is insufficient staff to timely respond to the volume of reports received, coordinate responsive supportive measures, and meet the education and training program requirements. For example, the Deputy Title IX Coordinator who sits in CSRR fulfills multiple roles, including serving as the Director of CSRR, the office responsible for all other student discipline. Further, the Title IX Investigators experience a high demand for assistance with supportive measures on behalf of students, in addition to their responsibility to handle reports. We also note there is a vacant “Confidential Administrative Assistant” role in CPHD, which had not yet been filled, whose role would include records management. In our interviews, CPHD identified additional staffing needs, including a dedicated record-keeper/data analyst, an additional investigator, and the support of an additional advocate. Importantly, the university approved the addition of another advocate position.

A fully resourced office would include, at a minimum, a Title IX Coordinator/DHR Administrator, a prevention and education coordinator, an intake and support coordinator, two investigators (the need for which may increase over time or may be subsumed by a CSU Center for Investigations and Resolutions as described in the Systemwide Report), a data specialist, and a full-time administrative manager. This staffing structure will support the following essential elements of effective practice: increased separation between the care and support function and the adjudicatory function; staffing for the necessary function of a prevention and education coordinator to maintain accountability for the delivery of all education and training requirements; and data input, tracking and additional administrative support for the team.

We learned that CPHD receives a relatively low number of reports. San Diego State is the 10<sup>th</sup> largest CSU university, by student enrollment, but receives a relatively small number of reports for a university its size. In the 2021-2022 academic year, CPHD reported receiving 187 reports and completed no investigations. During the prior fiscal year, CPHD received 92 reports of allegations related to Title IX and completed four investigations.

While reporting numbers have been impacted by the COVID-19 pandemic, San Diego State’s reporting numbers have been consistently low. Without more data and analysis, it is difficult to extrapolate conclusions about the low reporting rate, which may also be impacted by concerns related to awareness,

trust, and potential retaliation. Rebuilding trust and fostering increased reporting should be a priority for San Diego State. As the Title IX and DHR program gains traction in the community through increased visibility and additional opportunities to rebuilt trust, we expect that the volume of reports and the demands on the office will increase.

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 CPHD**

We observed barriers to the accessibility of CPHD during our visit. First, there is a lack of clarity by the division of Title IX staff between two separate offices, CPHD and CSRR. While CPHD is responsible for Title IX, DHR, and ADA accommodations, CSRR is primarily responsible for student discipline, while also housing Title IX staff. The division of the responsibility for Title IX functioning across these two offices creates confusion for students and positions the Title IX function with student discipline which is viewed by some students as a barrier to reporting.

We also noted that the [CPHD website](#) does not clearly establish CPHD as a resource for addressing Title IX and DHR for students, faculty, and staff. The top banner of the CPHD landing page reads only, “Center for the Prevention of Harassment and Discrimination.” The page includes neither the purpose nor the function of the office. Further, neither the [Title IX website](#), nor the CPHD website lists a physical location where university constituents can file a report.

We learned from student leaders their concern that most students do not know what Title IX is, and are unaware what resources are available to them. Students reportedly do not retain awareness or knowledge from required trainings. Further, there is a perception among university constituents that there is an inherent conflict of interest in the supervisory structure of CPHD, and that university administrators are more interested in protecting themselves and the institution rather than prioritizing student well-being.<sup>4</sup>

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<sup>4</sup> We discuss this further in Section V.A.

Our recommendations include the following: expanding the capacity of CPHD with necessary roles to fully support TIX and DHR supportive and investigative functions; streamlining of CPHD and CSRR functions to drive clarity for students and effective supervision by the TIX/DHR administrator; and developing an awareness campaign to raise awareness of CPHD, CSRR, the Confidential Advocate, and other relevant policies and resources.

### C. Website

The [Title IX website](#) needs to be updated and refreshed to increase user accessibility, improve information sharing, and facilitate engagement with the office.<sup>5</sup> CPHD and Title IX have two separate websites. The San Diego State Title IX website, rather than the [CPHD website](#), contains the relevant information about University policy, reporting, and resources. We note that the Title IX landing page omits reference to DHR entirely, and it does not reflect that the Title IX Coordinator is also the DHR Administrator.

San Diego State should reconcile these webpages for an easier to navigate, user-friendly experience. The Title IX website should also be reviewed for accuracy, especially with respect to definitions and outdated material,<sup>6</sup> and should front-load information about reporting, especially information about what happens when a report is received.

The university should also continue to use the website to update the community with important and real-time information regarding incidents that impact the campus.<sup>7</sup> The website is the primary source of information to the community about CPHD and Title IX/DHR and should clearly reflect its purpose, its resources, and its function.

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<sup>5</sup> For example, while the webpage lists contact information for the Title IX staff, it does not indicate the physical location of the office.

<sup>6</sup> <https://titleix.sdsu.edu/resources/files/sdsu-title-ix-sexual-violence-booklet-online.pdf>. The PDF at the provided link features outdated definitions that are not aligned with the current Title IX Regulation definitions.

<sup>7</sup> As an example, with respect to a high-profile case involving members of the football team, San Diego State shared available information with the campus community and created a website with detailed information about its response and multiple statements to the community. See Investigation into Reported Off-Campus Incident, <https://titleix.sdsu.edu/university-statements> (last updated May 18, 2023).

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

Reports can be made to the Title IX Coordinator/DHR Administrator in person or via email, telephone, or an [online reporting form](#) accessible through the [San Diego State's Title IX website](#).<sup>8</sup> Reports can be made by a complainant directly or through third parties (e.g., responsible employees). The online reporting form may be submitted anonymously and the form informs the reporter that, "While anonymous reports are accepted, you are STRONGLY encouraged to provide your name and contact information in order to allow us to most effectively address the concerning behavior."<sup>9</sup>

The online reporting form is accessible via San Diego State's Title IX website. However, navigating to the reporting form requires clicking through several webpages. It is unclear upon arrival to the webpage where to go to submit a report. The "Report an Incident" page, which contains the link to the reporting form, also contains several different clickable links, including "Confidential Reporting."<sup>10</sup> The website needs to clearly delineate the difference between where a report can be made and where confidential support can be obtained. Lastly, it is helpful for the reporter to know that completing the form anonymously may limit the ability of the office to respond.

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

As explained during our campus visit, CPHD receives most incident reports through the Maxient online reporting form, but also receives incident reports via email, phone, office walk-ins, and from UPD. Upon receiving an incident report, the CPHD team begins and continues to assess for timely warnings through the entire process. If the CPHD team determines there may be grounds for a timely warning or Emergency Notification, they coordinate with a larger team, including UPD, the Clery Director, the Clery Coordinator

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<sup>8</sup> The system publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

<sup>9</sup> [https://cm.maxient.com/reportingform.php?SanDiegoStateUniv&layout\\_id=3](https://cm.maxient.com/reportingform.php?SanDiegoStateUniv&layout_id=3)

<sup>10</sup> Options on this page include, "Confidential Reporting," "Criminal Reporting," "Reporting to the University," and "Faculty and Staff Complaint Process." Neither the "Confidential Reporting" nor "Criminal Reporting" pages contain links to the Title IX reporting form. Rather, they contain contact information for other resources, offices, and individuals. Moreover, "Confidential Reporting" should be renamed to "Confidential Resources" to more accurately reflect the function, which is confidential and protected by law. The linked resources are not offices of record and should not be confused with "reporting."

and other administrators. San Diego State uses a consistent template for timely warnings, which has reportedly minimized the amount of time it takes to get a timely warning out.

Once a report comes in, whether online or through any other reporting mechanism, CPHD begins preliminary fact gathering and outreach to the complainant, if known. CPHD uses template introductions and will send three outreach attempts through various modalities to attempt to contact the complainant. CPHD and the Title IX staff document each of these attempts, and include a message to the effect of, “we’re always here,” in their last attempt. In some cases CPHD may ask residence life staff or a faculty member to check in with a student, especially if the student initially reported their concern to that person. CPHD also noted a high no-show rate before they are able to have an in-person meeting with a complainant.

The Title IX Coordinator and the Deputy Title IX Coordinator are copied on all incoming Maxient reports. Formally, CPHD and CSRR divide reports based on the respondent’s role at the university. If the alleged respondent is a student, the report goes to CSRR. If the respondent is a faculty or staff member, the report goes to CPHD. In practice, however, this policy is not strictly followed and cases are sometimes assigned strictly based on workload or complexity of the case.

CPHD and CSRR report that the time between the receipt of a report and the initial triage and fact gathering often occurs within hours or during the same day. CPHD reports a similar timeframe between the receipt of a report and the initial outreach for student cases. If a report involves sexual misconduct, the outreach occurs immediately.

In the event CPHD receives a walk-in report, rather than a formal complaint, CPHD holds an informal information exchanging meeting during which the Title IX staff person briefly explains the process, rights, options, and supportive measures, and solicits a little more information from the reporting party, including their preferences about how to proceed. Importantly, whatever route they choose, support is available. CPHD also documents supportive measure offered, implemented, and denied or declined, as well as the reason a supportive measure was not implemented. This informal meeting is not a full process meeting. A detailed discussion of the process occurs during the formal intake. CPHD assesses for emergency removal or administrative leave (as applicable) in every case. If the complainant chooses the formal process, CPHD ensures the formal complaint is in writing.



No matter how the case comes in, the information gets entered into Maxient. We note, however, that there is no dedicated position within CPHD responsible for quality control and assurance to make sure information is getting into the system and that next steps are occurring in a timely fashion. While data entry is expected, it does not occur in real time as a matter of course.

Once a report moves to a formal complaint and the assigned CHPD/CSRR investigator sends out the notice of investigation, the formal intake meeting takes place. This is the “full process” meeting, and *ideally* is not conducted by the same person who will handle the investigation. Occasionally, however, the investigator also handles the intake.

We note that in the current organization of the offices, any and all CPHD and CSRR staff may be responsible for intake, outreach, support, and investigation depending on case type and workload. As noted below in our recommendations, we suggest that the office realign personnel to separate the outreach, intake, and supportive measures functions from the investigative function. This is challenging when the office has such a small staff, but could be accomplished more easily with the addition of an additional investigator, as well as other staff, as noted in our recommendations.

By policy, the investigation phase includes 100 working days, by which time the investigation, evidence review, and final investigative report should all be complete, and any notices of hearing or extension should be sent.

If the case goes to a hearing, CPHD will solicit a date that is acceptable to all parties. That date is suggested to the Chancellor’s Office, which will then seek a Hearing Advisor for that date and time. We note that informal resolution may be an off-ramp at any time during the formal process. In fact, we learned that most student-to-student cases resolve through informal resolution. During our campus visit in November 2022, we learned San Diego State had one case proceed to the hearing phase in the prior year.

## **F. Review of Case Files<sup>11</sup>**

At Cozen O'Connor's request, CPHD provided and we reviewed selected case materials from four distinct cases, two DHR cases with employee respondents, and two Title IX cases with student respondents. This was not a review of case files to revisit substantive outcomes nor was this an audit of all files. We identified notable opportunities for continued improvement in writing and presentation. In terms of substance, the investigation reports reflected that CPHD was thorough in terms of collecting and summarizing evidence, and the reports were generally clear and consistent in terms of their writing and reasoning, however some of the language used is overly legalistic and could be simplified.

We heard feedback that community members have been reluctant to report, in part, because of the community perception that investigations have taken too long and the parties did not receive regular communication from CPHD with case updates. Three of the four cases we reviewed reflected lengthy investigative process. The case timelines for the three cases were as follows: 7 months, 32 months<sup>12</sup>, and 8 months. From the submitted materials, we were unable to determine the length of the fourth case, which was conducted by an external investigator. Our recommendations include implementing quality assurance protocols to keep cases moving forward in a timely manner, and calendaring regularly-scheduled status updates for all investigations to ensure parties are informed of case status and progress.

## **G. Community Feedback on CPHD**

As noted above, student leadership shared that most students are not familiar with CPHD, and those who are, have a distrust formed by perceptions that the process has failed students and protected the university, or perpetrators, to the detriment of the community.

Employees, particularly faculty, with whom we spoke also shared negative perceptions of CPHD, based on the belief that individuals were ignored and concerns were minimized by CPHD. Faculty also shared that individuals are reluctant to file a complaint in part because they believe that nothing will happen with

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<sup>11</sup> We requested to review a small sample of case files at each university to evaluate form, comprehensiveness of documentation, timeliness, and responsiveness. Given the scope of our assessment, we did not conduct an extensive audit of all Title IX and DHR records.

<sup>12</sup> We note that while this incident was reported in 2018, the investigation continued during the COVID-19 pandemic, which may be partially responsible for the lengthy duration of the investigation.

their reports, they fear retaliation, and because of the long-standing power differentials that exist in academics (e.g., tenured versus non-tenured professionals). It is important to note that some also reported distrust based on a perceived conflict of interest in the structure of the office. Employees and students both commented on a lack of trust in the administration after learning about an incident related to members of the football team.

Campus stakeholders, including many faculty and staff, described distrust of existing systems and structures, particularly when they were associated with the administration. We heard that complainants often feel dismissed for making a report or blamed for the conduct. Many felt consistently discouraged from reporting because of the impression that nothing ever comes of those reports.

Troublingly, the survey responses reflected a low level of awareness of CPHD and its role. Those who were familiar with it stated they believed their complaints were not investigated or were ignored. Several respondents expressed distrust in the office and the personnel, believing the office was not neutral as a result of its reporting structure. Lastly, many responses echoed the theme of CPHD protecting the university and acting only out of compliance rather than care for the community.

Based on our observations, CPHD is disconnected with the San Diego State community and has had challenges rebuilding trust with students, faculty, and staff. Our recommendations seek to help San Diego State elevate the care and support function of CPHD to better serve its community through: 1) professional development to better incorporate the care aspects of the *care-compliance continuum* as described in the Systemwide Report; 2) additional resources to adequately staff CPHD to efficiently carry out both the care and the compliance functions; and 3) routine and improved engagement with the community to rebuild trust.

## **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>13</sup>

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<sup>13</sup> 34 C.F.R. § 106.8(a).

(ii) adopt grievance procedures that are prompt and equitable;<sup>14</sup> and (iii) publish a non-discrimination statement.<sup>15</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>16</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 compliance efforts.<sup>17</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>18</sup> The Title IX Coordinator’s role and responsibilities should be clearly defined, and the institution must notify applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the institution, of the name or title, office address, electronic mail address, and telephone number of the employee or employees

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<sup>14</sup> 34 C.F.R. § 106.8(b).

<sup>15</sup> 34 C.F.R. § 106.8(c).

<sup>16</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.

<sup>17</sup> 34 C.F.R. § 106.8(a).

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

designated as the Title IX Coordinator.<sup>19</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>20</sup>
2. Coordinating the effective implementation of supportive measures;<sup>21</sup>
3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;<sup>22</sup>
4. Considering the wishes of the complainant with respect to supportive measures, including explaining the process for filing a formal complaint;<sup>23</sup>
5. Attending appropriate training;<sup>24</sup>
6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;<sup>25</sup>
7. Overseeing the prompt and equitable nature of any investigation or resolution;<sup>26</sup> and

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

<sup>20</sup> 34 C.F.R. § 106.30(a) (defining “actual knowledge” as including notice to the Title IX Coordinator).

<sup>21</sup> *Id.*

<sup>22</sup> 34 C.F.R. § 106.44(a).

<sup>23</sup> *Id.*

<sup>24</sup> 34 C.F.R. § 106.45(b)(1)(iii) (“A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. § 106.30, the scope of the recipient’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.”)

<sup>25</sup> 34 C.F.R. § 106.45(b)(1)(iii).

<sup>26</sup> 34 C.F.R. § 106.8(a) (charging the Title IX Coordinator with “coordinating [institutional] efforts to comply” with Title IX).

8. Overseeing effective implementation of any remedies issued in connection with the grievance process.<sup>27</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>28</sup> Title IX Coordinators and DHR Administrators should be positioned organizationally to operate with appropriate independence and autonomy, have sufficient supervision and oversight, and have direct or dotted reporting lines to senior leadership.

The Chancellor's Office has published guidance regarding the role of campus Title IX Coordinators. Attachment B to the Systemwide Nondiscrimination Policy mandates that campus Title IX Coordinators "shall have authority across **all** campus-based divisions and programs (e.g., Human Resources, Academic Affairs, Student Affairs, Athletics, Housing, University Police, etc.) to monitor, supervise, oversee, and ensure implementation of [the Nondiscrimination Policy] in all areas . . . ." (Emphasis in original.) Attachment B further requires that all campus Title IX Coordinators and Deputy Title IX Coordinators be MPPs and "have the qualifications, authority and time to address all complaints throughout the campus involving Title IX issues."<sup>29</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

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<sup>27</sup> 34 C.F.R. § 106.8(a); 34 C.F.R. § 106.45(b)(7)(iv).

<sup>28</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 and aligned with the current regulations. 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."

<sup>29</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."

serving as university counsel or as a disciplinary decision maker)” and that they report to a supervisor who is a Vice President or higher.

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

The current head of CPHD has served as the University’s Title IX Coordinator and DHR Administrator for approximately two years. Her contact information is displayed on the Title IX [website](#). We find that the Title IX Coordinator is appropriately positioned organizationally, as she reports to the Senior Associate Vice President of Administration, within the Division of Business and Financial Affairs. Some university constituents raised concerns that this reporting structure prioritizes compliance over student, faculty, and staff well-being, and that perhaps reporting directly to the President would be a better structure. In the current structure, however, CPHD has the benefit of formalized, daily communication and support from the Senior Associate VP of Administration who has been at the university for 17 years. In practice, CPHD also benefits from informal, albeit regular, communication with the President. We note the Senior Associate VP of Administration is uniquely qualified to oversee the University’s Title IX functions. She has served San Diego State in a variety of roles since 2006, including as the Title IX Coordinator. The longevity and institutional knowledge that come with this tenure during the time of the most significant change in Title IX laws and practice are an incredible resource to San Diego State and the Title IX office, and is uncommon across the CSU system.

In terms of resources, CPHD struggles in much the same way as other offices across the system. While CPHD currently has more employees than most other university Title IX/DHR offices — five in total (consisting of the Title IX Coordinator, two Deputy Title IX Coordinators, and two Title IX/DHR Investigators)— the team reported that staffing was nonetheless insufficient to meet the needs of the campus. At least one of the Investigators spends the majority their time coordinating supportive measures. It was noted that at San Diego State, students usually continue to need and use the accommodations until they graduate. Additionally, employee burnout was identified as a concern based on heavy workload.

In terms of training, the Title IX Coordinator/DHR Administrator is appropriately trained, as evidenced by the list of [CSU provided trainings](#). In addition, we observed that the Title IX Coordinator/DHR Administrator has appropriate subject matter expertise with respect to Title IX and DHR issues, having served in her current role for approximately two years, and as a Title IX Coordinator at another university for several years prior to coming to San Diego State. Further the office has the support of the Senior Associate VP of Administration, who has significant Title IX experience. Nonetheless, San Diego State could benefit from more robust support from the Chancellor's Office. CPHD personnel shared this support has atrophied since the pandemic.

CPHD 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.

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

The Title IX regulations require that institutions publish a non-discrimination statement.<sup>30</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>31</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>32</sup>

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<sup>30</sup> 34 C.F.R. § 106.8(b).

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

<sup>32</sup> 34 C.F.R. § 106.8(b)(2).



San Diego State has a Notice of Non-Discrimination titled, "[San Diego State's Title IX Notice of Non-Discrimination Statement of Non-Discrimination and Sexual Violence Prevention Education Statement](#)" (Notice), 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. The Notice specifically states it extends to "employment as well as in all education programs and activities operated by the University." The Notice omits reference to admissions, as required by the Title IX regulations. The Notice provides the required contact information, for the campus Title IX Coordinator and OCR, to individuals seeking to report sex discrimination.

San Diego State's Notice must be updated for accuracy and accessibility. The Notice is accessible on the University's Title IX website, but not the CPHD website. Accessing the Notice, however, is not intuitive. San Diego State provides the Notice via a link to a PDF on the Title IX website titled "Title IX and University Policy." Despite the title, the link does not take the viewer to the University policy. Rather, it provides a PDF of the San Diego State Notice of Non-Discrimination.

In addition, while several other pages of the Title IX website and other San Diego State webpages link to the CSU Nondiscrimination Policy that prohibits discrimination on the basis of sex, it does not make the San Diego State Notice of Non-Discrimination as clearly accessible. There is no direct link to the Notice on most other University webpages, including the San Diego State homepage, and the webpages for Admissions and Student Life. While Athletics includes a link at the bottom of their [homepage](#) titled, "San Diego State Non-Discrimination Policy," it links to the Notice of Non-Discrimination, which, again, is not the policy. Additionally, the content of the Notice is outdated and should be corrected. We recommend an overhaul of the Notice of Non-Discrimination, its content, and its location on the website.

### **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>33</sup> The regulations further require educational institutions to provide notice of the grievance procedures and process, including how to

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<sup>33</sup>34 C.F.R. § 106.8(c).

report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond to such a report or complaint.<sup>34</sup>

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

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

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<sup>34</sup>*Id.*

The CSU's prohibition against certain consensual relationships is embedded within the Nondiscrimination Policy.<sup>35</sup> We learned that at many of the CSU universities, the prohibition is not adequately communicated to the campus community, limited or no training is offered on the prohibition, and the prohibition is not enforced. Given the significant overlap of the prohibited relationship policy with Title IX, and DHR and *other conduct of concern*, attention should be given to the training and enforcement of this prohibition. We recommend that training on this section of the policy be incorporated into required training and education. On many campuses, this was an issue of significant concern for faculty and staff.

## **VI. Campus Coordination**

During our campus visit, we learned of challenges in coordination between CPHD and key campus partners that delayed processes and created barriers to information sharing and understanding of process. Those challenges highlight the need for a multidisciplinary team (MDT) and a shared records management system for consistent information sharing and informed decision-making. Given the challenges in coordination, our recommendations address how to more effectively develop and utilize an MDT to ensure continued coordination.

CPHD coordinates with the following departments, all of which have responsibilities related to conduct or discipline.

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

The San Diego State University Police Department (UPD) consists of 31 sworn police officers. UPD provides policing services to students, faculty, staff, and individuals visiting within San Diego State's jurisdiction. The police officers and emergency dispatchers are graduates of a California Peace Officer Standards and Training (POST) academy and are empowered by section 830.2 (c) of the California Penal Code. On an average year, UPD officers and dispatchers handle roughly 45,000 incidents. UPD deploys officers on foot, bicycles, and patrol vehicles. The detectives work to resolve cases and connect victims/survivors with resources. The traffic unit focuses on traffic-related safety, education and enforcement. The K-9 unit

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<sup>35</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."

supplements patrol efforts, while the community relations unit focuses on community outreach and engagement. In addition, the Clery Coordinator for the University sits within the University Police Department.

As of July 2023, UPD had six open positions listed for Police Officer, Police Officer Cadet, Police Dispatcher, Special Events Officer, Social Worker, and student Community Service Officer positions.

We learned that UPD investigates reports of criminal sexual or gender-based violence that reportedly occurred on-campus, which includes fact-gathering, and evidence collection. UPD officers are trained to provide complainants with information related to medical care and survivor advocate resources. UPD also maintains a packet, with physical and electronic copies, of University resources that they give to all complainants of sexual violence. Under its interpretation of California Penal Code 293, UPD does not include a complainant's name in reports to CPHD where the complainant has requested that their name not be shared. UPD reportedly has a collaborative and good working relationship with CPHD and CSRR at San Diego State.

#### **B. Center for Student Rights and Responsibilities**

San Diego State's Center for Student Rights and Responsibilities (CSRR) is tasked with addressing student behavior that violates the Student Code of Conduct. During our campus visit, we learned that CPHD and CSRR share the responsibility to implement Title IX at San Diego State, with CSRR handling student-to-student complaints. The Director of CSRR also serves as a Deputy Title IX Coordinator. As a result, coordination and communication between the two offices was constant and consistent. Nonetheless, we observed several areas in which internal processes across the two offices could be improved and elaborate upon those recommendations below.

#### **C. Center for Human Resources**

The [Center for Human Resources](#) (CHR) reports up to the Senior Associate VP of Administration within the division of Business and Financial Affairs. The Director of CHR oversees employment for staff and management, payroll, workforce administration, and benefits. At San Diego State, the traditional HR role is broken up into multiple offices including faculty affairs.

CHR is also responsible for administering and tracking the required online training, but does not track in-person training.

CHR uses a file management program called PeopleSoft, however, they do not have a system that tracks all reports received. Typically, if CHR receives a report relating to Title IX or DHR, it is sent to CPHD, which then maintains those records in Maxient.

While there is no formal mechanism for information sharing between CHR and CPHD when reports come in to CHR, the Director of CHR reports to the same Senior Associate VP as CPHD. Further, the CHR Director was previously the DHR Administrator. These informal communication lines should be replaced by a Multi-Disciplinary Team, which we discuss in our recommendations below.

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

The Provost is the head of the Division of Academic Affairs at San Diego State and oversees a variety of different functions within Academic Affairs including the supervision of Deans of the various colleges, Academic Labor Relations, and Faculty Advancement. Faculty Advancement consists of the Associate Vice President for Faculty Advancement and Student Success, and their staff. Academic Labor Relations, led by the Assistant VP for Academic Labor, is responsible for managing the University's labor and employee relations program for represented academic employees.

Faculty Personnel Action Files are maintained in hardcopy records. Grievances and other complaints filed are maintained in a centralized system maintained by the Chancellor's Office.

#### **E. Housing and Residence Education**

[Housing and Residence Education](#) at San Diego State sits within the Division of Student Affairs and Campus Diversity. With 25 residential buildings, San Diego State currently has 8,500 residents in campus housing. All first- and second-year students who are from outside of the San Diego State service area must live on campus.

During our campus visit, we observed that despite a good working relationship between CHPD and the Residential Education team, some reports to those in Residential Education were not automatically referred to CPHD. This practice may lead to potential gaps in identification of protected status misconduct and insufficient oversight/quality control to ensure reports are timely forwarded to CPHD. Our recommendations include increased training for Residential Life staff and improved communication, coordination, and information sharing with CPHD to resolve any potential gaps in identifying and responding to protected status discrimination and harassment.

## **F. Clery Act Responsibilities**

San Diego State's [Clery Act](#) responsibilities are fulfilled by the University's Clery Director (who also serves as the Associate Vice President for Public Safety and Community Empowerment) and the University's Clery Coordinator (who also serves as the University Police Records Supervisor). The Clery Director previously served as a Police Chief for seven years. UPD, in conjunction with the Clery Director and Coordinator, is responsible for timely warning and emergency notification assessments. UPD uses a written assessment criteria form for timely warnings to document the factors considering in issuing or declining to issue a timely warning.

The Clery Director and Clery Coordinator are responsible for gathering and maintaining the information necessary for campus crime statistics, for preparing San Diego State'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 team reviews reports within Maxient (there is an [online CSA form](#)) from various campus offices and consults directly and regularly with UPD to determine whether those incidents are Clery reportable.

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

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

### **A. Sexual Assault Victim Advocate<sup>36</sup>**

The Sexual Assault Victim Advocate (Advocate) at San Diego State is an employee of the Center for Community Solutions (CCS) working at San Diego State per a memorandum of understanding (MOU). This MOU is managed by the Senior Associate VP of Administration. The university does not directly employ an Advocate. According to the university's [website](#), "The Sexual Assault Victim Advocate is a confidential resource and any details relating to your report of sexual violence will not be reported to the university without your consent." The Advocate works with students and employees, and has a floating office rather

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<sup>36</sup> The Confidential Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

than a fixed location. Within the Title IX program, the Advocate provides accompaniment, assists with accommodations, and serves as a support advisor.

Prior to this school year, one person filled the Advocate role for four years. However, the position was vacant for the five months immediately preceding the current Advocate's start at the beginning of the 2022-2023 school year. Unfortunately, university constituents seem to be largely unaware of the Advocate's confidential role or services. We recommend updating the university website and expanding outreach efforts to promote this vital and confidential service.

The Title IX team has welcomed the return of an Advocate to the university and provided training with respect to the university's Title IX policies. This has positively impacted the Advocate's ability to engage with the university constituents. Additionally, the university has expressed its intention to hire another Advocate directly employed by the university, rather than by CCS.

#### **B. Respondent Support**

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

#### **C. Counseling & Psychological Services**

San Diego State's [Counseling and Psychological Services](#) (C&PS), offers short-term individual and group counseling, workshops, mindfulness and meditation, and crisis services to undergraduate and graduate students. Individual counseling is for students who can benefit from short-term therapy to address issues that interfere with personal well-being and academic success. Referrals can be provided for off-campus resources for those who require longer-term therapy. Other C&PS services include the ASPIRE program, Biofeedback, and Baxter, the therapy dog. C&PS counselors are confidential resources with limited legal exceptions as indicated on the university [website](#).

The [ASPIRE program](#) offers assistance to those who may be experiencing substance abuse issues. Through one-on-one counseling, interactive computerized programs and assessment tools, the ASPIRE program offers tailored resources to address substance abuse and its impacts on life and learning.

[Biofeedback](#) is, “a non-invasive computer-based training system used to teach you how to gain better control over your body’s responses to stress.” This program is available via telehealth and starts with four one-on-one sessions with a counselor, during which students are connected to a computer to learn breathing techniques to improve control over reactions to stress. C&PS also offers [Everyday Mindfulness and Meditation](#), a workshop to practice exactly that: mindfulness and meditation. The workshops are facilitated by a therapist and meet once a week for an hour and a half. New rounds of workshops begin every three to four weeks in the fall and spring semesters.

C&PS in partnership with the Office of Well-Being and Health Promotion also offers the [Basic Needs and Wellness Toolkit](#), a website that catalogs, “tangible tips, resources and advice on how to identify students in crisis and connect students to support resources.” This website provides an extensive variety of tools tailored to faculty, staff, student leaders, and the general student population to identify a basic needs and wellness situation and how to talk to students about those needs. Further, the website offers easily accessible resources to those who may be experiencing a food, housing, financial, mental health, substance abuse, safety, or academic crisis.

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

San Diego State [Student Health Services](#) provides basic medical care for students. Services include: primary health care, sexual and reproductive health, lab testing, pharmacy, physical exams, basic radiology, osteopathic and orthopedic specialty care, and injections and immunizations.<sup>37</sup>

#### **E. Ombuds**

San Diego State has a [Student Ombudsman](#) and an Assistant Student Ombudsman, whose roles include listening to student concerns in a safe space, investigating complaints that do not allege Title IX violations, explaining university policies, evaluating options to solve student problems, assisting in grade appeals,

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<sup>37</sup> <https://sacd.sdsu.edu/student-health-services/services>



recommending policy changes, and acting as a neutral resource to facilitate communications.<sup>38</sup> According to the Ombudsman website, reports of discrimination or harassment will be forwarded by the Ombudsman to the Center for the Prevention of Harassment and Discrimination.<sup>39</sup>

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

Students at San Diego State have access to a number of on campus resources. In addition to the resources discussed above ([C&PS](#), the [Campus Advocate](#), [Student Health Services](#), and the Office of Well-being and Health Promotion). Other relevant on-campus resources include:

- A student-focused [Campus Assistance, Response, Evaluation, and Support Team](#) (CARES Team) sits within the Division of Student Affairs and Campus Diversity. As described on the CARES Team’s website, the CARES Team exists, “to address concerns about students experiencing or causing distress that interferes with learning, development, and success, and ensure that they are connected to appropriate resources.”<sup>40</sup> The permanent members of the CARES Team are representatives from: the Center for Student Rights and Responsibilities, Counseling and Psychological Services, Economic Crisis Response Team, Residential Education Office, San Diego State Police Department, Student Ability Success Center, Student Life and Leadership. Non-permanent members include: the Athletics Department, International Student Center, Financial Aid & Scholarships, Graduate Division, and Student Health Services.
- Affinity groups, cultural centers, and community centers such as The Pride Center, The Black Resource Center, The Asian Pacific Islander Desi American Resource Center, the Native Resource Center, the Latinx Resource Center, San Diego State-Imperial Valley’s Cross-Cultural Center, San Diego State Center for Intercultural Relations, The Center for Transformative Justice, the Undocumented Resource Center, and The Women’s Resource Center.<sup>41</sup> The Women’s Resource Center, for example, offers a program titled “The Brave Project” which is a certification program that, “provides education to the San Diego State community on sexual assault prevention, resources, and support through a holistic social, feminist, and trauma-informed lens.”<sup>42</sup>

Additional resources and links can be accessed [here](#).

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<sup>38</sup><https://sacd.sdsu.edu/student-ombudsman>

<sup>39</sup><https://sacd.sdsu.edu/student-ombudsman/role>

<sup>40</sup><https://sacd.sdsu.edu/cares-team>

<sup>41</sup> The links to the website for each listed center can be found here: <https://sacd.sdsu.edu/cultural-centers>

<sup>42</sup><https://sacd.sdsu.edu/womens-resource/the-brave-project>

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

The University also offers an Employee Assistance Program (EAP) called LifeMatters, which is administered through Empathia. The program is designed to provide confidential resources for professional assistance to faculty, staff, and their families (dependents and permanent household members) in assessing and resolving personal problems that may be affecting well-being or job performance. Resources available to employees include counseling services, campus resources, and referrals to community resources. The counseling services and consultations are available to discuss a range of topics including relationships, finances, health services, workplace services, legal services, and emotional wellbeing services.

## **VIII. Prevention, Education, Professional Development, Training and Awareness<sup>43</sup>**

Required Title IX training and education, as well as primary and ongoing prevention and awareness programming, including bystander intervention programming, as required by the Violence Against Women Reauthorization Act of 2013 (VAWA), which amended the Clery Act, is offered through a variety of systemwide and San Diego State offices, including CPHD, CSRR, C&PS, the Office of Well-Being and Health Promotion, Athletics, UPD, and Residential Education, among others.

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>44</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>45</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>43</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>44</sup> See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

<sup>45</sup> See Attachment C: Confidential Sexual Assault Victim's Advocates.

developing and providing campus-wide awareness and outreach activities, possibly including prevention activities.<sup>46</sup>

This level of coordination and oversight is not occurring at San Diego State, nor at most universities across the system. When we visited San Diego State, we learned that San Diego State offers dozens of training and education opportunities to students to meet the Title IX and Clery/VAWA training requirements. However, there is a dearth of education and training for faculty and staff beyond the systemwide online training for employees. We also learned that San Diego State has neither a university-wide committee focused on health and wellbeing, nor a coordinator specifically dedicated to tracking violence prevention programming or training. We observed a need to coordinate prevention and education programming and engage in strategic planning to ensure effectiveness, consistent with the Nondiscrimination Policy.

#### **A. Students**

Under the Nondiscrimination Policy, all San Diego State students are required to take online Title IX online training every academic year. In addition, San Diego State provides a variety of programming for students. We note the Division of Business and Financial Affairs maintains a spreadsheet that documents Title IX trainings which includes the training date, the topics covered, the audience, and the presenters. The trainings cover a range of topics, including but not limited to: Title IX and duties to report, supporting students, survivor support, affirmative consent, healthy relationships, bystander intervention techniques, alcohol or other drugs and sexual misconduct, party etiquette/alcohol and party environment, sexual assault awareness, sexual violence prevention, campus resources, gender roles, masculinity, sexual misconduct policies, rape culture, and victims experience. Training is provided by CPHD, the Office of Well-Being and Health Promotion, the Women's Resource Center, Athletics, C&PS, and in some instances the University also brings in external speakers.

The Office of Well-Being and Health Promotion (WHP) at San Diego State provides education and programming on the following health areas: Nutrition, Sexual Health and Violence Prevention, Recovery,

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<sup>46</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.”

Narcan Training, as well as financial education.<sup>47</sup> WHP offers three sexual violence presentations with an online scheduling form through their website.<sup>48</sup> A Student Life Health and Safety Coordinator also sits within this office. The Coordinator works collaboratively with other organizations at San Diego State including the Center for Fraternity and Sorority Life and the Center for Student Organizations and Activities.<sup>49</sup> The Coordinator also teaches two Peer Health Educations courses titled FratMANers (Fraternity Men Against Negative Environments and Rape Situations) and SISSTER (Sororities Invested in Survivor Support, Training, and Ending Rape culture) which teach members of fraternities and sororities how to be advocates for sexual violence prevention, peer health education, and victim/survivor support.<sup>50</sup> Outside of fraternity and sorority life, San Diego State offers a year-long training for Peer Health Educators focusing on topics relevant to health issues in the San Diego State population.<sup>51</sup>

San Diego State offers its student-athletes a unique program called “Aztecs Going Pro.” Aztecs Going Pro is a for-credit, four-year program centered around three foundational pillars: personal growth, career development, and civic engagement. The curriculum begins with a summer orientation session for incoming freshmen and transfer students featuring academic programming and workshops on drug and alcohol education, community living, sexual assault prevention, and mental health. Notably, the summer orientation session includes an introduction to the Title IX Coordinator and the Deputy Title IX Coordinator who sits in Athletics.

Aztecs Going Pro offers tailored content for all four undergraduate years. Each year includes 16 hours of workshops based on the three foundational pillars, a signature event (for example, major and career exploration for sophomores and mock interviews for juniors), and one-on-one coaching. The program also hosts events that incorporate other University resources, including Counseling & Psychological Services,

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<sup>47</sup> <https://sacd.sdsu.edu/health-promotion>

<sup>48</sup> <https://sacd.sdsu.edu/health-promotion/education-workshops-and-presentations/presentations-for-student-groups/sexual-violence-presentations>

<sup>49</sup> <https://sacd.sdsu.edu/womens-resource/the-brave-project>

<sup>50</sup> <https://sacd.sdsu.edu/health-promotion/about-us/staff>

<sup>51</sup> <https://sacd.sdsu.edu/health-promotion/about-us/peer-health-educators>

Student Health Services, and the Office of Well-being and Health Promotion.<sup>52</sup> The freshman curriculum includes training and education on topics such as consent, healthy relationships, party culture, boundaries, bystander intervention and campus resources on these topics. This course also includes training provided by the Center for Community Solutions (CCS) with respect to relationship and sexual violence.<sup>53</sup> The sophomore seminar course includes a program called “ATHLETiquette” provided by the Office of Well-Being and Health Promotion, which builds upon and reaffirms the concept of bystander intervention and identifies relevant resources.<sup>54</sup>

Aztecs Going Pro provides repeated, in-person exposure to the concepts, university policies and resources relating to Title IX. From our observations, it is a model program that could be replicated across the system.

We recommend building upon the robust efforts described above to track, coordinate, strategically plan, and manage the content of these training and education opportunities with the directives of the Nondiscrimination Policy.

## **B. Employees**

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

The systemwide Learning and Development Office in the Chancellor’s Office hosts these online modules, which are provided by an external vendor, on its systemwide employee learning management system. The Learning and Development Office tracks employee completion of these required programs. The below

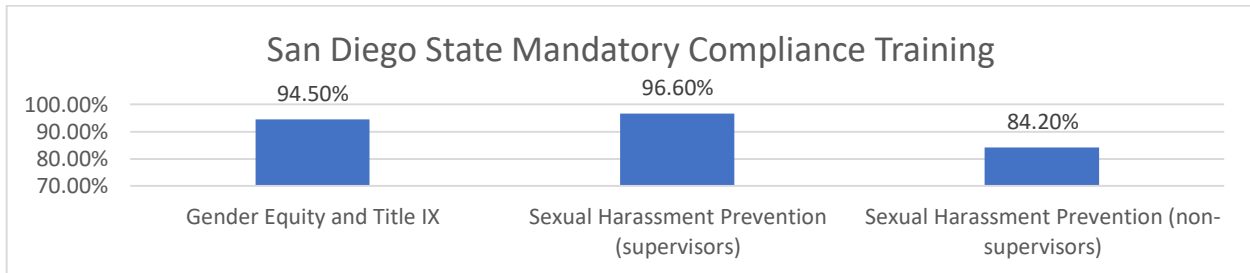
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<sup>52</sup> <https://titleix.sdsu.edu/university-statements>

<sup>53</sup> <https://titleix.sdsu.edu/university-statements>

<sup>54</sup> <https://titleix.sdsu.edu/university-statements>

chart, provided by the Chancellor’s Office, shows the completion percentage for each university for the 2022 calendar year:<sup>55</sup>



In addition to the online training described above, San Diego State offers additional in-person training to responsible employees, including faculty and staff new-hires, and those to whom students have historically reported, including Housing and Residential staff, academic advisors, Chairs and Deans, and student staff of identity and affinity centers.<sup>56</sup> CHPD sends out an annual email to all responsible employees with a reminder of their status as a responsible employee and a description of their responsibilities.

San Diego State also offers additional implicit bias training to any individuals who will serve on a search committee. However, as noted above, the opportunities provided to faculty and staff are meager compared to those offered to students. As at other CSU universities, we noted the need for expanded professional development and training opportunities for faculty and staff.

### C. Coordination

While CHR administers and tracks completion of the systemwide required training, the Senior Associate VP for Administration maintains a spreadsheet to track upcoming and completed trainings by other offices for students on topics related to Title IX, and sexual violence prevention and education. Our recommendations, as described in detail below, provide additional opportunities to track, strategically plan, and coordinate, training and prevention programming and collaborate with campus partners.

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<sup>55</sup>These percentages have been validated by each CSU university. Please note employees designated by their university as “on leave” were removed from these final percentages.

<sup>56</sup> When students are also staff, as is the case with affinity and identity centers, in their role as employees they are responsible employees.

## 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.

We learned that microaggressions, a form of *other conduct of concern*, are generally underreported. Faculty described being particularly impacted by unchecked microaggressions. Faculty with whom we met shared concerns about the prevalence of microaggressions among faculty and its negative impact on culture, but also expressed fear in reporting due to the power dynamics at play with tenured faculty and department chairs. The accounts shared painted a dim and distressing picture.

Staff members expressed feeling as if the university does not value staff. Many felt that bullying, harassing, and other microaggressions are ignored. As a result, many felt they would not speak up to report an incident because, “nothing is ever done.” Another concern was the structure of the reporting chain. Specifically, any reports about managers or VPs are investigated by other managers and VPs within the university. This represented a potential conflict of interest to some we interviewed, further emphasizing the feeling that nothing would come of a report. Additionally, some felt that the university and CPHD protected the university and those accused of misconduct rather than those reporting the behavior.

Through our interviews, we learned about the Inclusive San Diego State Communication System, San Diego State’s informal bias incident reporting system. Per their website, the purpose of the system is to

document instances that promote the campus commitment,<sup>57</sup> as well as those that fall short.<sup>58</sup> Situated in the Division of Diversity and Innovation in collaboration with the Division of Student Affairs, any constituent of the university, students, staff, or faculty, can submit a report to Inclusive San Diego State. Each submission to the system is reviewed by the Inclusive San Diego State team, comprised of representatives from Associated Students, CSRR, Counseling and Psychological Services, Division of Student Affairs, Division of Diversity and Innovation, Office of Employee Relations and Compliance, Title IX Coordinator, Strategic Communications and Public Affairs, Student Ombudsman, and University Police. The submissions are documented and monitored over time. If the team believes that further action is necessary, it can take additional steps, such as offer support to the affected person, meet with the parties involved in the incident, refer the complainant to appropriate offices or existing reporting channels for Title IX/DHR violations, identify a liaison to serve as a point of contact for the incident, do a climate assessment to see if the incident is part of a larger pattern, send the incident to a restorative justice process (if appropriate), among other options. While a response may include a referral to a separate office, Inclusive San Diego State focuses on opportunities for education and effective conflict resolution led by diversity professionals. At the time of our visit to San Diego State, the Inclusive San Diego State team was developing a formal protocol to apply to all reports, although the team was still receiving and responding to all submissions while waiting for the protocol to be approved.

While Inclusive San Diego State serves an important function at the university, it is not well known among university constituents, and many administrators were unclear about its role. Further, the restorative justice process remains voluntary, without a mechanism to compel parties to engage in the activities that will lead to a resolution of the issues. In addition, Inclusive San Diego State could benefit from having more resources to respond to bias-related reports, and increase the visibility and awareness of its role.

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<sup>57</sup> Inclusive San Diego State's website references that commitment: "San Diego State University is committed to fostering an environment of inclusion that values, honors, and respects all members of our University community." The website continues to say, "[w]e are committed to cultivating a campus climate that promotes human dignity, civility, and mutual appreciation for the uniqueness of each member of our community." <https://sacd.sdsu.edu/diversity-initiatives/inclusive>

<sup>58</sup> <https://sacd.sdsu.edu/diversity-initiatives/inclusive>



## **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 hiring an additional Title IX/DHR Investigator, a prevention and education coordinator, an additional Confidential Advocate, a respondent resource, a full-time administrative manager
  - 3.2 Hire or identify a dedicated respondent support resource
  - 3.3 Separate and formalize intake, outreach, and supportive measures as standalone functions separate from investigation functions
  - 3.4 Create separation of intake functions from investigation functions via personnel (preferred) or via process-driven separation
  - 3.5 Expand visibility of Confidential Advocate and any future Respondent Support Resource for staff and faculty

- 3.6 Develop protocol for outreach and follow-up support for witnesses and reporters including responsible employees
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. Routinize support structures from legal analysis, to quality control of judgement calls for consistency, care, and compliance
10. Commit to a routine of quality assurance audits to identify and address concerns proactively

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

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

1. Coordinate with the Regional Director, Systemwide Title IX/Civil Rights Division, and subject matter experts to:
  - 1.1. Map the case resolution process from reporting and intake through to investigation and resolution process.
    - 1.1.1 Compare the current process against standard practices and identify any concerns related to timeliness, conflicts, gaps in communication, or gaps in consistent process.
    - 1.1.2 Identify, map, and reconcile intersections with faculty/staff grievance and disciplinary processes.
  - 1.2. Develop robust intake, outreach, and case management protocols for supportive measures and resources
    - 1.2.1 Develop internal protocols and written tools (e.g., templates and checklists) for intake and outreach, oversight of supportive measures, and decision-making regarding emergency removal or administrative leave
    - 1.2.2 Seek to hold an intake meeting with all individuals who make a report of conduct that would potentially violate the Nondiscrimination Policy

- 1.2.3 Develop protocols for notifying and coordinating with the confidential advocate at the intake meeting, if possible
  - 1.2.4 Develop or update protocols for information sharing to ensure that the Title IX/DHR Office can fulfill its responsibility of documenting all supportive measures offered, requested, implemented, and if denied, the reasons for the denial
  - 1.2.5 Create a feedback loop to acknowledge responsible employee reports and confirm receipt of the report and next steps
  - 1.2.6 Establish standardized protocols for outreach to complainants that involve multiple modalities, systems to document outreach, and a protocol for how and when to make additional outreach in cases with non-responsive complainants, including the potential for outreach through a third-party or a responsible employee
- 1.3. Develop integrated, written processes for initial assessment designed to evaluate known facts and circumstances, assess and implement supportive measures, facilitate compliance with Title IX and Clery responsibilities, and identify the appropriate institutional response after triaging the available and relevant information; as part of the initial assessment, the Title IX Coordinator/DHR Administrator should:
- 1.3.1 Take steps to respond to any immediate health or safety concerns raised by the report
  - 1.3.2 Assess the nature and circumstances of the report to determine whether the reported conduct raises a potential policy violation and the appropriate manner of resolution under the Nondiscrimination Policy
  - 1.3.3 Assess the nature and circumstances of the report, including whether it provides the names and/or any other information that identifies the complainant, the respondent, any witness and/or any other individual with knowledge of the reported incident
  - 1.3.4 Provide the complainant with both oral and written information about on- and off-campus resources (including confidential resources), supportive measures, the right to contact (or decline to contact) law enforcement or seek a civil protection order, the right to seek medical treatment, the importance of preservation of evidence, the right to be accompanied at any meeting by an advisor of choice, and an explanation of the procedural options available
  - 1.3.5 Refer the report to appropriate campus officials to assess the reported conduct and determine the need for a timely warning or other action under the Clery Act
  - 1.3.6 Assess the available information for any pattern of conduct by respondent
  - 1.3.7 Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns)
  - 1.3.8 Explain the policy prohibiting retaliation and how to report acts of retaliation
  - 1.3.9 Determine the age of the complainant, and if the complainant is a minor, make the appropriate report of suspected abuse consistent with state law
  - 1.3.10 Evaluate other external reporting requirements under federal or state law or memoranda of understanding
  - 1.3.11 Develop, and follow, a comprehensive written checklist/form to ensure that all required actions are taken under state and federal law

- 1.3.12 Develop checklist of factors to consider in determining whether to move forward without a complainant or whether informal resolution is appropriate and ensure sufficient documentation of the determination
- 1.3.13 Provide a written statement of concern at the conclusion of the initial assessment to ensure that the complainant (and as appropriate, the respondent) have a clear understanding of the nature of the report and the proposed resolution path
- 1.4. Separate support/advocacy functions from investigation to avoid role confusion and ensure clear demarcation between the individuals who provide supportive measures to a complainant, respondent or other individual in need of assistance, and the investigator
- 1.5. Strengthen campus collaboration and information-sharing through a multidisciplinary team (MDT) model
  - 1.5.1 The Title IX Coordinator/DHR Administrator, in conjunction with the Chancellor's Office, should identify essential university partners to serve on the MDT and set standards for meeting goals and sharing real time information. MDT members may include representatives from Student Affairs/Student Conduct, Faculty/Academic Affairs, Human Resources, UPD, Title IX Coordinator, DHR Administrator, Clery Coordinator, and University Counsel
  - 1.5.2 The MDT should meet regularly and at a minimum, weekly, to review all new reports
  - 1.5.3 The MDT should ensure that all known and available information about the parties and the reported incident is shared with TIX/DHR to inform TIX/DHR's initial assessment and any steps it determines to take in response (including information maintained outside of Title IX/DHR's recordkeeping systems and information that may only be known to another unit or individual)
  - 1.5.4 The Title IX Coordinator/DHR Administrator should follow a protocol for securely sharing parties' university ID numbers or names and basic information about the reported incident in advance of MDT meetings to enable all participants to query their records systems and bring forward any relevant information
  - 1.5.5 The Title IX Coordinator/DHR Administrator should ensure that the multidisciplinary team is trained to treat information confidentially, with sensitivity, and consistent with state and federal privacy laws
  - 1.5.6 The MDT should engage in consultation to inform decisions, including those about emergency removal, administrative leave, the reasonable availability of supportive measures, and questions about the scope of the university's education program or activity
  - 1.5.7 The MDT meetings should serve as natural opportunities for documenting the factors considered in reaching key decisions and documenting what information was known, when it was known, by whom it was known, and what impact it had on the Title IX Coordinator/DHR Administrator's analysis
  - 1.5.8 The MDT should facilitate the development of shared fluency and knowledge among key university partners related to the legal and regulatory requirements, policy frameworks, and considerations related to care and informed and equitable processes
- 1.6. Develop tools for consistent, informed, effective documentation and case management

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

### **C. Communications**

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

1. Ensure distribution of a clear and consistent communication plan each semester that includes, at a minimum:
  - 1.1. Dissemination of the Notice of Non-Discrimination
  - 1.2. Dissemination of the Nondiscrimination Policy
  - 1.3. Information about reporting and resources

2. Develop an intentional marketing campaign to raise awareness about the role of the Title IX/DHR program, available resources, and resolution options
  - 2.1. Prioritize the messages of care, supportive measures, and resources
  - 2.2. Differentiate and educate about the difference between confidential resources and reporting options
  - 2.3. Partner with campus communications professionals to create and promote effective marketing materials, including through the use of professional branding that can be used across platforms (print, web, social media, imprinted on giveaway products)
3. Improve the Title IX/DHR website and other external-facing communications
  - 3.1. Review and revise web content, across all relevant webpages, for clarity, accuracy, and accessibility
  - 3.2. Ensure that web content includes: photographs and contact information for Title IX/DHR staff, notice of non-discrimination, a link to the Nondiscrimination Policy, an overview of procedural and resolution options (with accessible graphics), how to make a report (to Title IX/DHR or UPD), on and off campus confidential resources, the difference between confidentiality and privacy, supportive measures, employee reporting responsibilities, an FAQ, prevention and education programming
  - 3.3. Draft and publish updated notice of non-discrimination with accurate information
  - 3.4. Retitle the “Title IX and University Policy” link on the Title IX website to reflect that it links to the San Diego State Notice of Non-Discrimination
  - 3.5. Provide a link to the updated Notice of Non-Discrimination on every home page footer
  - 3.6. Fix the “San Diego State Non-Discrimination Policy” link at the footer of the Athletics page so that it links to the San Diego State Notice of Non-Discrimination, and retitle the link so that it reflects access to the Notice of Non-Discrimination
  - 3.7. Reconcile the Non-Discrimination Policy and Sexual Harassment Policy pages on San Diego State website for clarity, accurate content, and ease of use
  - 3.8. 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:
    - 3.8.1 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
    - 3.8.2 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
  - 3.9. 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.)
  - 3.10. Continue efforts to translate system policy into understandable campus processes

4. Develop an expanded annual report with meaningful information/data
5. Develop standing committee of representative student, faculty and staff ambassadors to support and facilitate institutional efforts to more effectively communicate with campus constituents
6. Identify and prioritize opportunities for in-person engagement with Title IX/DHR staff (e.g., pop-up events, tabling at an information fair, open houses in various central locations, routine scheduled short presentations to key audiences, and/or sponsored or co-sponsored events)

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

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

1. Allot sufficient budget lines to ensure consistent, baseline funding for personnel, legally-required programming, and technology/learning management systems
2. Proactively coordinate with system-level subject matter experts to assist with education, training, materials and communications related to complex and difficult issues facing all CSU institutions
3. Designate one individual with specific oversight of all university prevention and education planning and programming, preferably a full-time role without other job responsibilities
  - 3.1. This coordinator should be tasked with oversight of and responsibility for all legally-required programming under Title IX, the Clery Act, and California law
4. Convene a university-wide Prevention and Education Oversight Committee to coordinate and align programming across the university
  - 4.1. The Committee should include all departments who provide training, prevention and education, including, at a minimum, representatives from the Title IX/DHR program, the confidential advocate, student affairs, student health, counseling, UPD, athletics, fraternity and sorority life, residential life, human resources and employee labor relations, academic/faculty affairs, DEI professionals, identity-based affinity centers, university subject-matter experts, and staff, faculty, and student representatives
  - 4.2. The Committee should include subcommittees, as determined by the Committee. Committees may focus on the needs of various constituencies (undergraduate students, graduate students, staff, administrators, and faculty) or the types of programming (compliance, professional development, prevention and education, bystander intervention, etc.)
  - 4.3. The Committee should be charged with reviewing prevention program content, evaluating proposed programming or speakers, ensuring that prevention-related communications are reaching all constituents, and developing and implementing a mechanism for assessing effectiveness including by monitoring participation levels and measuring learning outcomes
5. With assistance from the Chancellor's Office, develop a strategic plan for university programming that identifies all training requirements under federal and state law and CSU policy, all constituencies and constituent groups in need of training, and all potential university partners that can collaborate to deliver content

- 5.1. Constituent groups subject to required training should include students (undergraduate and graduate); targeted student populations (athletes, fraternity and sorority life, residential students, residence life student staff, international students, student leaders); senior leadership; faculty (deans, department chairs, leads, lecturers); staff (managers, supervisors); and campus partners who assist in the implementation of Title IX/DHR
- 5.2. Identify all university partners who provide programming, including affinity and identity-based centers and student affairs personnel
- 5.3. Identify opportunities for virtual and in-person engagement
- 5.4. Develop core principles and standards for content development
- 5.5. Build a university calendar that includes online modules, social norm campaigns, orientation for students and employees, recurring opportunities for programming, and awareness events
6. Facilitate a consistent communication plan each semester that includes dissemination of the policy, notice of nondiscrimination, reporting options and resources
7. Ensure that programming is coordinated, communicated and tracked
8. Develop a university website dedicated to prevention and campus programming that is kept current, facilitates distribution of prevention and education materials, and incorporates the opportunity for feedback and recommendations
9. Identify social media platforms and other vehicles for distributing programming information on a regular basis
10. In conjunction with the Chancellor's Office, expand professional development and training for faculty and staff, including senior leadership, deans, department chairs, managers and leads on Title IX and DHR; respectful and inclusive environments; conflict resolution; bystander intervention strategies; effective leadership and supervision; and, reporting responsibilities under Title IX, the Clery Act, and CANRA
  - 10.1. Ensure the training includes information about prohibited consensual relationships given the significant overlap of prohibited consensual relationships with Title IX, DHR and *other conduct of concern*
11. Create routine training, education, and professional development opportunities to cultivate competencies in navigating difficult conversations, bridging differences, and modeling respect and civility
12. Evaluate the potential opportunities for curricular or course-based programming credential-based options
13. Incorporate information about the Nondiscrimination Policy, reporting options, and confidential resources in syllabi statements
14. Commit to providing programming regarding bystander engagement
15. Participate in national conferences, listservs, networking events and other opportunities to coordinate with other professionals dedicated to prevention
16. Engage students in the development and delivery of programming through peer educator/peer advocate programs
17. Identify student leaders who can serve as ambassadors/promoters of this work



18. Develop consistent on-campus opportunities to be visible and present in the community

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

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

1. In conjunction with the Chancellor's Office and CSU's Office of General Counsel, develop a written policy, document, or statement by senior leadership to establish expectations, guidelines, and/or definitions of conduct
  - 1.1. The written framework should address unprofessional conduct, abusive conduct, microaggressions, acts of intolerance, and other disruptive behavior in the living, learning and working environment
  - 1.2. The written framework must also address intersections with free speech and academic freedom, including the explicit recognition that the CSU cannot discipline for protected speech
2. Reinforce CSU values and expectations about respect, tolerance, and professionalism through programming and opportunities for in-person engagement
3. Strengthen and expand available competencies regarding conflict resolution, navigating interpersonal conflict, restorative justice, and other forms of remedial responses
  - 3.1. Strengthen traditional employee relations functions within human resources to assist in responding to concerns involving faculty and staff
  - 3.2. Strengthen competencies of managers, supervisors, deans and department chairs by providing expanded training and professional development to meet the needs of assigned roles
  - 3.3. Consider the need for additional personnel, such as an ombudsperson or a conflict resolution professional, including those with expertise in restorative justice and mediation
  - 3.4. Develop communications competencies to embrace the tension of difficult issues including the intersections of speech in the contexts of politically and socially-charged events and issues
  - 3.5. Communicate the new and available conflict resolution suite of resources through web content, annual training, and awareness campaigns
  - 3.6. Invest in education and training about conflict resolution
4. Create a centralized reporting mechanism that includes the option for online and anonymous reporting
  - 4.1. Ensure that the landing page for the anonymous reporting option includes appropriate caveats about the university's limited ability to respond to an anonymous report
5. Build a triage model/review process to ensure that all reports are assessed by Title IX and DHR professionals (and a subset of the Title IX/DHR MDT) and evaluate potential avenues for resolution that include the following:
  - 5.1. Identify potential policy violation and investigative response, if any
  - 5.2. Refer to the appropriate administrator/department to coordinate/lead the response

- 5.3. Identify reasonably available individual supportive measures, if any, and
- 5.4. Identify appropriate community remedies, if any
6. The reporting and resolution processes must ensure sufficient documentation system to track responsiveness, patterns and trends
7. This information should be tracked and analyzed on at least an annual basis to inform the need for remedial actions regarding culture and climate, targeted prevention and education programming, and ongoing issues of concern

**Appendix I**  
**Metrics: Campus Demographics and Population<sup>59</sup>**

The below chart reflects key metrics and demographic information for San Diego State University:

| San Diego State University   |   |   |     |
|--|---|---|-----|
| Location Information   |   |   |     |
| <b>Location:</b><br>San Diego, CA (pop. 1,381,162) <sup>60</sup>   | <b>County:</b><br>San Diego County (pop. 3,276,208) <sup>61</sup> | <b>Locale Classification:</b><br>Large City <sup>62</sup> |     |
| University Information   |   |   |     |
| <b>President:</b><br>Adela de la Torre, Ph. D. (2018-present)  |   |   |     |
| <b>Designations:</b><br>Hispanic Serving Institution (HSI) <sup>63</sup><br>Asian American and Native American Pacific Islander-Serving Institution (AANAPISI) <sup>64</sup> |   |   |     |
| Students – Enrollment Data <sup>65</sup>   |   |   |     |
| Total Number of Students   |   | 37,510  |     |
| State-Supported  |   | Self-Supported  |     |
| Undergraduates   | 3,1724  | Undergraduates  | 559 |
| Grad & Post Bac Students   | 4,913   | Grad & Post Bac Students                                  | 314 |
| Student Ethnicity <sup>66</sup>  |   |   |     |
| Overall (includes State- and Self-Supported)   |   |   |     |
| Hispanic / Latino  |   | 35%   |     |
| White  |   | 34%   |     |
| Asian  |   | 13%   |     |
| Two or More Races  |   | 7%  |     |
| International Student  |   | 5%  |     |
| Black / African American   |   | 4%  |     |
| Race and Ethnicity Unknown   |   | 3%  |     |

<sup>59</sup> Unless otherwise noted, Cozen O’Connor obtained data concerning San Diego State demographics, populations, Title IX and DHR staffing, operations and caseload from California State University and San Diego State sources. This report will be updated to reflect material inaccuracies brought to our attention on or before September 15, 2023.

<sup>60</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/sandiegocitycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>61</sup> United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/sandiegocountycalifornia/PST045221>, population estimate as of July 1, 2021.

<sup>62</sup> Defined as a territory inside an urbanized area and inside a principal city with population of 250,000 or more. See National Center for Education Statistics, <https://nces.ed.gov/programs/edge/Geographic/LocaleBoundaries> and <https://nces.ed.gov/surveys/annualreports/topical-studies/locale/definitions>.

<sup>63</sup> HSIs are defined under the Higher Education Act as colleges or universities where at least 25% of the undergraduate, full-time enrollment is Hispanic; and at least half of the university’s degree-seeking students must be low-income. See <https://www2.ed.gov/about/offices/list/ope/itudes/eligibility.html>

<sup>64</sup> AANAPISIs are defined under the Higher Education Act as colleges or universities with an undergraduate enrollment that is at least 10% Asian American and Native American Pacific Islander. Additionally, at least half of the University’s degree-seeking students must be low-income. See <https://www2.ed.gov/programs/aanapi/eligibility.html>

<sup>65</sup> California State University Enrollment Data, Fall 2022, Cal State San Diego: [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>66</sup> *Id.* This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

|   |              |  |              |
|---|--------------|--|--------------|
| Native Hawaiian / Other Pacific Islander                        |              | <1%  |              |
| American Indian / Alaska Native                                 |              | <1%  |              |
| <b>State-Supported (36,637 students)</b>                        |              | <b>Self-Supported (873 students)</b>           |              |
| Hispanic / Latino   | 35%          | Hispanic / Latino                              | 38%          |
| White   | 34%          | White  | 24%          |
| Asian   | 13%          | International Student                          | 13%          |
| Two or More Races   | 7%           | Asian  | 8%           |
| International Student   | 4%           | Race and Ethnicity Unknown                     | 5%           |
| Black / African American  | 4%           | Two or More Races                              | 4%           |
| Race and Ethnicity Unknown                                      | 3%           | Black / African American                       | 4%           |
| 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>67</sup></b>                  |              |  |              |
| <b>Overall (includes State- and Self-Supported)</b>             |              |  |              |
| First in Family to Attend College                               |              | 18%  |              |
| % students who are traditionally underrepresented <sup>68</sup> |              | 39%  |              |
| % of undergrads who were Pell Grant recipients <sup>69</sup>    |              | 32%  |              |
| % of students who live on campus <sup>70</sup>                  |              | 18%  |              |
| % undergrads who are in a fraternity or sorority <sup>71</sup>  |              | 12   |              |
| 4-year graduation rate for first-time FT freshmen <sup>72</sup> |              | 56.3%  |              |
| <b>State-Supported (36,637 students)</b>                        |              | <b>Self-Supported (873 students)</b>           |              |
| Average Age   | 22           | Average Age                                    | 30           |
| Sex <sup>73</sup>   | 58% F; 42% M | Sex <sup>74</sup>                              | 59% F; 41% M |
| First in Family to Attend College                               | 18%          | First in Family to Attend College              | 26%          |
| % traditionally underrepresented <sup>75</sup>                  | 39%          | % traditionally underrepresented <sup>76</sup> | 42%          |
| <b>Instructional Faculty<sup>77</sup></b>                       |              |  |              |
| Total # of faculty  |              | 2,030  |              |
| Tenure-track  |              | 40.6%  |              |
| Lecturer  |              | 59.4%  |              |

<sup>67</sup> *Id.*, except where noted otherwise. This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

<sup>68</sup> For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

<sup>69</sup> Pell Grants are federal grants that are usually awarded only to undergraduate students who display exceptional financial need. 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>70</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>71</sup> This figure was calculated utilizing data obtained from <https://sacd.sdsu.edu/student-life-leadership/fraternity-and-sorority-life> and [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)

<sup>72</sup> California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with Cal State San Diego 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>73</sup> Data does not capture number of students who do not identify on the sex/gender binary.

<sup>74</sup> *Id.*

<sup>75</sup> For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

<sup>76</sup> *Id.*

<sup>77</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.

|  |  |
|--|--|
| % full-time <sup>78</sup>                            | 52.16%   |
| % part-time  | 47.84%   |
| Leadership body                                      | University Senate <sup>79</sup>                      |
| <b>Staff<sup>80</sup></b>                            |  |
| Total # of staff                                     | 1,868  |
| % full-time  | 95.13%   |
| % part-time  | 4.87%  |
| <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>81</sup></b>                        |  |
| NCAA Division  | I  |
| NCAA Conference                                      | Mountain West Conference <sup>82</sup>               |
| Number of sponsored sports for '22-'23 academic year | 18   |
| Number of student athletes <sup>83</sup>             | 490  |

<sup>78</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>79</sup> Cal State San Diego Academic Senate. See <https://senate.sdsu.edu/>

<sup>80</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>81</sup> NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=626>, except where noted otherwise.

<sup>82</sup> All sports are in the Mountain West Conference with the exception of the following: Men's Soccer (PAC-12 Conference), Women's Lacrosse (Mountain Pacific Sports Federation), and Women's Water Polo (Golden Coast Conference).

<sup>83</sup> See U.S. Department of Education, Equity in Athletics Data Analysis, at <https://ope.ed.gov/athletics/#/>, data for California State University San Diego. 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 Campus Survey

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

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

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

- Physical Safety and Security. Survey respondents were asked to rate their physical safety on campus, including locations in which they felt more or less safe.
- Culture of Inclusivity and Respect. Survey respondents provided feedback with respect to the culture of inclusivity and respect in their working, living, and classroom environments.
- Training Programs. Survey respondents were asked to rate the quality of the training programs provided by the University.
- Interactions with Title IX/ DHR. We asked survey respondents to describe their interactions with Title IX and DHR, address whether complaints were handled properly, and to provide any recommendations they had as community members for fostering reporting and building trust in these resources.
- Barriers to Reporting. Finally, we asked survey respondents about their inclinations to use campus confidential resources, and whether any barriers existed to their reporting, such as fear of retaliation, concern regarding reactions to complaints, or ineffective investigative procedures.

At San Diego State University, we received 1,314<sup>84</sup> responses from students, faculty, staff, and administrators as follows:

| Constituency             | Number of Responses |
|--------------------------|---------------------|
| Undergraduate Student    | 474                 |
| Graduate Student         | 191                 |
| Staff                    | 384                 |
| Administrator or Manager | 78                  |
| Faculty                  | 238                 |
| Other                    | 47                  |

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:

- Respondents feared unhoused populations on campus. Survey respondents stated that they felt unsafe on campus, largely because the campus is open to the public, including unhoused individuals or those using drugs.
- Fraternity parties seen as a major safety risk. Survey respondents shared that Greek life at San Diego State was a contributor to sexual violence and harassment.
- Football team conduct. Survey respondents expressed their belief that the university had overlooked the sexual assault of a minor by members of the football team; some stated that the team made them feel unsafe because of historical abuses.
- Stakeholders not aware of resources available. Survey respondents expressed confusion about which resources were available to them, or they repeated misinformation about university policies. Some survey respondents noted that the website does not have up to date TIX coordinator information readily available, and others stated they did not know about confidential advocates.
- Conflicts of interest viewed as a major issue with respect to Title IX. Survey respondents stated that they did not trust Title IX because of the recent football team investigation, and because Title IX

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<sup>84</sup> Some survey respondents identified as belonging to multiple constituencies; hence, the number listed here is smaller than the sum total in the chart below.

reported to the university and thus could not be impartial. They viewed the office as serving the institution's interests, rather than the interests of its stakeholders.

- Timeliness and responsiveness. Some survey respondents noted that their cases took too long to resolve.
- Bullying, microaggressions, and non-protected statuses. Some respondents stated that fears of retaliation were particularly troublesome in cases of bullying, where power dynamics combined with policies that do not adequately address bullying could exacerbate potential for supervisors to take adverse action. One survey respondent stated that they reported workplace harassment and bullying, but were told that their complaints were not actionable because they did not belong to a protected status themselves.
- University obligation to respond. Survey respondents stated that they did not believe that Title IX could do anything about incidents that occurred off campus in an educational setting or affiliated setting such as a fraternity house.
- Training and outreach do not appear effective. Survey respondents expressed confusion about the process for pursuing a complaint, and some were mistaken about fundamental aspects of the process, including confidentiality, which would have informed their decision to report. For example, one student survey respondent stated that they could not file a report with Title IX because the university would involve their family without their consent, and their family did not know about their sexual orientation.
- Intersectionality between ADA and Title IX. One survey respondent stated that neurodivergence was not properly considered by the Title IX and DHR policies in effect.
- Communication with kindness. Several respondents stated that their communications with Title IX were unkind and terse, or included victim blaming.



### **Appendix III Title IX Annual Report Metrics**

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

As part of our review of the Title IX program at San Diego State University, we reviewed the University's annual Title IX reports for years 2018-2019 through 2021-2022. These annual reports are posted online on San Diego State's Office website.<sup>85</sup> The annual reports provide data regarding the reports of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, Stalking, and – in 2021-2022, Sexual Exploitation and Sexual Harassment – made to the Title IX Office each year. The annual reports reflect the number of reports received, disaggregated by the type of conduct and whether the respondent was a student, employee, or third-party, unknown, or unidentified. Beginning in 2019-2020, the annual reports also reflect procedural outcomes, including:

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

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

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

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

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<sup>85</sup> [https://titleix.sdsu.edu/\\_resources/files/21-22-titleix-annual-report.pdf](https://titleix.sdsu.edu/_resources/files/21-22-titleix-annual-report.pdf) (last visited May 31, 2023).

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

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

In presenting the below data, we note that some campuses identified challenges with accuracy or completeness in their data. We have attempted to reconcile that data where possible, recognizing that some CSU institutions have provided data prepared by individuals who are no longer employed by the institution. Before publishing this report, we sent outreach to all Title IX Coordinators to request that they verify the accuracy of their 2021-2022 annual Title IX report. On April 26, 2023, San Diego State verified the accuracy of the 2021-2022 annual Title IX report and added that, since publishing the annual report, the University identified one case that was inadvertently not included. The below data include the update as provided by San Diego State. San Diego State also provided updated information about the 3 cases that were open as of June 30, 2022, including that 2 resulted in informal resolution and one underwent a formal investigation with findings.

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

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

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

**A. Types of Reported Conduct<sup>86</sup>**

|   | <b>2018-2019</b>   | <b>2019-2020</b> | <b>2020-2021</b> | <b>2021-2022</b> |
|---|--------------------|------------------|------------------|------------------|
| Reports of Sexual Misconduct/Sexual Assault   | Data not available | 85               | 61               | 127              |
| Reports of Dating/Domestic Violence   |                    | 21               | 21               | 21               |
| Reports of Stalking   |                    | 3                | 10               | 16               |
| Sexual Exploitation*  |                    | -                | -                | 3                |
| Sexual Harassment*  |                    | -                | -                | 20               |
| <b>Total # of Reports in Above Categories</b>   | <b>61</b>          | <b>109</b>       | <b>92</b>        | <b>187</b>       |
| <b>* This data was not requested by the Chancellor’s Office prior to the 2021-2022 academic year.</b> |                    |                  |                  |                  |

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<sup>86</sup> This data does not include reports of incidents that fail to meet the threshold of Title IX misconduct.

**B. Respondents' Roles<sup>87</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.

|  | <b>2018-2019</b> | <b>2019-2020</b> | <b>2020-2021</b> | <b>2021-2022</b> |
|--|------------------|------------------|------------------|------------------|
| Reports in which the Respondent is a student     | 60               | 53               | 18               | 86               |
| Reports in which the Respondent is an employee   | 1                | 4                | 1                | 3                |
| Reports in which the Respondent is a third-party | -                | 0                | 0                | 52               |
| Reports in which the Respondent is unknown       | -                | 53               | 23               | 46               |
| Reports in which the Respondent is unidentified  | -                |                  |                  | 0                |
| <b>Total # of Reports in Above Categories</b>    | <b>61</b>        | <b>109</b>       | <b>42</b>        | <b>187</b>       |

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<sup>87</sup> Respondent Role totals may differ from Reported Conduct totals due to multiple allegations related to one Respondent.

**C. Case Outcomes<sup>88</sup>**

The below data reflect the collective outcomes of reports to the Title IX Office.<sup>89</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  | Data not available | 1         | 27        | 53        |
| Reports in which the Complainant’s identity was unknown to the Title IX Office   |                    | 0         | 0         | 0         |
| Reports in which the Complainant requested supportive measures or resources only   |                    | 78        | 65        | 90        |
| Reports that resulted in other outcomes (except formal investigation)  |                    | 1         | 2         | 45        |
| Reports that resulted in a formal investigation*   | 2                  | 5         | 4         | 0         |
| * 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. |                    |           |           |           |

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<sup>88</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>89</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.