

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

California State University, Bakersfield

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I. Introduction

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

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

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

- Infrastructure and resources at each CSU university and the systemwide Title IX and DHR offices;
- Training, education, and prevention programming for students, staff, and faculty at each university, the Chancellor's Office, and members of the Board of Trustees;
- The availability of confidential or other resources dedicated to supporting complainants, respondents, and witnesses;
- The life span of a Title IX or DHR report, from intake to resolution, including intake; outreach and support protocols; case management systems and protocols; staffing and models for 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

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

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

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

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

This report outlines Cozen O'Connor's assessment of the Title IX and DHR programs at California State University, Bakersfield (Bakersfield Report). The CSU Bakersfield review was led by Gina Maisto Smith and Cara Sawyer. The Bakersfield 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 Bakersfield Report must be read in conjunction with the Systemwide Report, as the Systemwide Report provides a more detailed discussion about the assessment, the scope of the engagement, our approach to the issues, and common observations and recommendations across all 23 CSU universities. For ease of reading and efficiency, the content from the Systemwide Report is not replicated in each University Report.

CSU Bakersfield is located in Bakersfield, CA. It has a student population of approximately 9,621, 2% of whom live on campus, and a workforce of approximately 1,219 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 CSU Bakersfield, Cozen O'Connor conducted a three day onsite campus visit from September 27 to 29, 2022, as well as multiple additional virtual follow-up meetings conducted over Zoom. In total, Cozen O'Connor conducted more than 20 meetings with more than 30 administrators, faculty, 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):

- Office of Equity, Inclusion, and Compliance
 - Chief Diversity Officer & Special Assistant to the President
 - Director of Equity, Inclusion, and Compliance
 - Equity, Inclusion, and Compliance Specialist
 - Office on Violence against Women Program Specialist
 - Campus Advocate & Education Coordinator
- Student Health Services
 - Assistant Director of Health Services
 - Clinical Assistant, Health Services
 - Health Educator, Health Services
- Student Affairs
 - Dean of students/Student Conduct
 - Office of Student Involvement, Director, Clubs & Student Organizations/Deputy Title IX Coordinator for Student Organizations
- Counseling and Psychological Services
 - Coordinator, Counseling Center
- Athletics
 - Interim Director of Athletics/SWA, Deputy Title IX Coordinator for Athletics
- Law Enforcement
 - Chief of Police
 - Administrative Lieutenant
- Human Resources
 - Associate Vice President, Chief Human Resources Officer
- Academic Affairs
 - Provost & Vice President for Academic Affairs
 - Associate Vice President for Faculty Affairs
- Ombudsperson
 - Student Ombudsperson
- University Counsel
- Academic Senate Executive Team (seven attendees)
- ASI Student Leaders (four attendees)

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

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 751 responses to the survey from CSU Bakersfield students, faculty, staff, and administrators. A summary of the survey response rate and data is included in Appendix II.

III. Summary of Findings and Recommendations

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

Infrastructure, Awareness and Visibility of Equity, Inclusion, and Compliance (EIC): The Office of Equity, Inclusion, and Compliance has an extensive portfolio that includes the university's DHR and Title IX programs, the university's Clery and whistleblower response as well as responsibility for the Americans with Disabilities Act (ADA) accommodations and accessibility for faculty; diversity, equity, and inclusion projects; and the Campus Affinity Groups. Additionally, prevention programming is part of the EIC office. These extensive responsibilities are not sufficiently resourced (either staff or systems) for effective implementation. We note EIC enjoys a positive working relationship with its campus partners, however, reports to the office are very low, and students report limited awareness of the office and its function. The challenge that remains is to effectively support EIC to satisfy the responsibilities of its important functions and communicate a positive and caring tone to university students, faculty, and staff, as the current perception held by many campus constituents is one of distrust. To address these concerns, we recommend taking steps to increase staffing and resources for the office and to engage in routine community outreach to improve relationships with students, staff, and faculty. We recommend that EIC focus on increasing the awareness and visibility

of the commitment and resources of the office. Most notably, we recommend that the university launch an awareness campaign dedicated to connecting with all constituents and designed to educate the university about EIC, its purpose and function, and the diversity of resources available.

Strengthening Internal EIC Processes and Campus Coordination: Given the breadth of its portfolio of responsibility, and the impacts of under resourcing, as a priority, EIC protocols must be formalized for effective coordination with campus partners and augmented using technology wherever possible. Notably, EIC leads with a collaborative nature and cooperative spirit that influences a willingness among multidisciplinary stakeholders to share information. EIC works well with campus partners and has a positive relationship with the Confidential Advocate. However, EIC's multidisciplinary coordination, while it does occur, is not formalized or documented in a manner that allows for consistent real-time sharing and cross referencing information between and among campus partners. Currently, the university does not have enterprise level coordination to share real-time information. In addition, EIC's internal processes are in need of significant improvement, especially with regard to formalizing processes and documenting, sharing, and tracking information. We learned that investigations either do not proceed, or they take too long, delaying accountability. Improvements in internal protocols will help streamline intake and investigations and mitigate delays based on process issues. We recommend that CSU Bakersfield create a formal multidisciplinary team that would meet on a regular basis to discuss all incoming student, staff, and/or faculty reports related to Title IX/DHR, and that EIC conduct an internal mapping exercise of their internal processes to prioritize timeliness and responsive communication. We further recommend the implementation of an enterprise level case management system to support these efforts.

Prevention and Education: CSU Bakersfield's prevention and education program responsibility is shared among EIC, the university's Confidential Advocate, and the Office on Violence against Women (OVW) Grant Project Specialist. EIC provides the compliance education and training, with the Confidential Advocate and the OVW Project Specialist handling the prevention piece. Despite a diverse array of programs offered (we note the [OVW Project Specialist](#) lists many presentations he can offer), the approach to prevention and education is based more on relationships and requests than on a strategic plan and

coordinated effort. We further note that CSU Bakersfield's compliance rate for completing the mandatory *Gender Equity and Title IX* training for employees is one of the lowest in the CSU. We recommend that CSU Bakersfield build a formal prevention and education program, including a dedicated Prevention Coordinator and a campus Prevention and Education Oversight Committee, to address issues related to discrimination and harassment, including sexual and gender-based harassment and violence.

Responding to *Other Conduct of Concern*:² As with other CSU universities, CSU Bakersfield grapples with conduct issues that may not rise to the level of a policy violation, but nonetheless are disruptive to the living, learning, and working environment of the campus community. CSU Bakersfield has no consistent and formalized mechanism for navigating these behaviors, which we refer to as *other conduct of concern*. CSU Bakersfield has two creative initiatives, one for faculty and one for students, that seek to address some aspects. The new position of Professional Responsibility Coordinator through the Faculty Affairs office is designed to address *other conduct of concern* within the academic affairs division, and is a positive step toward a process of accountability for faculty members. Further, for students, the university offers a Student Ombudsperson designed to bridge the gap of understanding between students and faculty, and provide a space for conflicts to be resolved through facilitated conversations and negotiations. This unique position is well-received within the campus community and well-functioning as described. We recommend that CSU Bakersfield work closely with the Chancellor's Office to build on the strengths and lessons of these efforts to develop a formal process to address reports of *other conduct of concern* in other divisions of the university. This

²We 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.

formal process should focus on a suite of resources to strengthen and expand competencies of conflict resolution, restorative justice, and other remedial practices. Additionally, we recommend a centralized and anonymous reporting mechanism at the university level as well as the establishment of a formal triage and review process that ensures appropriate analysis, documentation, and tracking of reports and responses.

IV. The Office of Equity, Inclusion and Compliance

A. Infrastructure

The Office of Equity, Inclusion, and Compliance (EIC) is responsible for responding to reports of conduct that may violate the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#) (Nondiscrimination Policy). EIC also handles whistleblower complaints, accessibility or disability discrimination and reasonable accommodations for students and employees, and pregnant and parenting student accommodations. EIC also oversees the Clery function, including the primary prevention programming and educational trainings to the campus community.

EIC consists of the Chief Diversity Officer & Special Assistant to the President (Chief Diversity Officer) who has been with the University since 2013; the Director of Equity, Inclusion, and Compliance, who has held this role four years, and serves as CSU Bakersfield's Title IX Coordinator/DHR Administrator, as well as its ADA Coordinator. The Title IX Coordinator/DHR Administrator also receives and responds to whistleblower complaints. The Equity, Inclusion, and Compliance Specialist has been with the university since 2016. Also located administratively in the Division are the OVW Project Specialist, the Campus Advocate & Education Coordinator (Campus Advocate), and a Student Assistant. The OVW Project Specialist, Campus Advocate, and Student Assistant report to the Chief Diversity Officer. Primary and ongoing prevention and awareness programming as well as bystander intervention programming required by the Violence Against Women Act that amended the Clery Act is offered primarily through the OVW Project Specialist, and with the Campus Advocate.

The Chief Diversity Officer reports to the President, and oversees the Division. Chief Diversity Officer also oversees the advisory councils for the underrepresented on campus, the OVW grant, and the Multicultural Centers. The Chief Diversity Officer also operates as the Campus Clery Director. The Director of Equity, Inclusion, and Compliance serves as the University's Title IX Coordinator/DHR Administrator (Title IX

Coordinator/DHR Administrator). The Title IX Coordinator/DHR Administrator's duties include provision of supportive measures, intake, and investigations of Title IX and DHR complaints. The Title IX Coordinator/DHR Administrator is the only in-house investigator. EIC also relies upon external investigators. The Compliance Specialist reports to the Title IX Coordinator/DHR Administrator and also to the Chief Diversity Officer, although the majority of the Compliance Specialist's duties are related to Title IX, such as training oversight, intake and outreach, and assisting with the implementation of supportive measures. In working with the Chief Diversity Officer, the Compliance Specialist assists with inclusivity initiatives and diversity programming. In addition to the staff in EIC, the university has designated Deputy Title IX Coordinators who are also campus partners in departments across CSU Bakersfield, including in athletics, housing, student conduct, and student organizations. According to EIC's website, the [Deputy Title IX Coordinators](#) are, "available to explain the university's complaint process, available resources, and collaborate with the Title IX Coordinator to respond to Title IX issues."

EIC struggles with a lack of resources. In order to ideally manage the demand on the team, EIC should supplement the current team with sufficient personnel to fill the following functions: intake, outreach, and oversight of supportive measures; investigations; administrative support and documentation; and prevention and education. This staffing structure will allow for increased separation between the care and support function of the office (case manager and intake coordinator) and the adjudicatory function of the office (investigators), as well as reallocate the workload to a prevention and education coordinator who can track training requirements, and provide administrative support for the team.

When we visited campus in September 2022, EIC was not using a case management system other than a call log spreadsheet, with interview notes and case details saved in documents and stored locally on the university server. EIC reported they participate in approximately 400 interactions with students, faculty and staff per year; of those, about half are related to Title IX concerns. EIC told us that during the past academic year, four cases went to investigation, and of those, two investigations were completed, and two were still ongoing.

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 CSU Bakersfield metrics from the Title IX annual reports is included in Appendix III.

B. Visibility and Community Awareness of EIC

EIC is located in the Office of the President. We heard concerns that the location of EIC is a barrier for individuals to report to or to meet with EIC. We heard the concern that going into that area of campus makes it obvious that the individual is going to meet with EIC. We heard this concern from both leadership and students.

We also heard concerns from campus partners and students that students do not feel resources are available to them in a discreet way. Students want to know what they need to do in order to “qualify” for access to resources, and they do not want anyone to see them accessing the resources on campus.

Our recommendations include developing an awareness campaign that collaborates with key campus partners to raise awareness of EIC. We also recommend that the university review a possible new physical location for EIC that is accessible and more private.

C. Website

EIC’s website needs to be updated and refreshed to increase user accessibility, improve information sharing, and facilitate engagement with the office. The website should be refreshed to frontload information about reporting, resources, an overview of resolution options, and clear information about what happens when a report is received. In particular, we note that there is outdated and misleading information on the website. We address the details in the Recommendations section of this report.

D. Reporting Options

As of February 2023, EIC began implementing a case management system. As of May 2023, there is no on-line reporting form on the campus website.³ Reports can be made via telephone, email, or in person and may be made directly by a complainant or by a third party (e.g., responsible employee).

E. Case Processing

We learned that when a report comes into EIC, all information known at the time is logged into a daily call log. The Title IX Coordinator/DHR Administrator sends an initial outreach email to the complainant that

³ The CSU System publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

includes options and resources, as appropriate. Since EIC is not fully operational in a formal case management system, such as Maxient, the Title IX Coordinator/DHR Administrator saves the notes from intake meetings in a file on the university server. The office tracks contact with constituents via a daily call log spreadsheet which is also saved on the university server. Supportive measures are offered and overseen by the Title IX Coordinator/DHR Administrator, with support from the Compliance Specialist. Supportive measures (offered, requested, and implemented) are also documented in the daily call log. If the Complainant requests an investigation, the Title IX Coordinator/DHR Administrator requests that the CSU Title IX/DHR complaint form is completed and submitted. This is an unnecessary step and potentially burdensome to the complainant to complete. While a formal complaint is required, the process can be significantly streamlined to lessen the burden on a complainant. If the complaint meets the criteria for investigation, the Title IX Coordinator/DHR Administrator identifies an investigator and sends the Notice of Investigation to both parties. We learned that in order to hire an outside investigator, a request must be made to the Chancellor's Office, a process that can take up to 3 weeks. Depending on that determination, either the Title IX Coordinator/DHR Administrator will begin the investigation, and interview witnesses and gather evidence, or the Title IX Coordinator/DHR Administrator will work with the external investigator to help access witnesses and coordinate other investigative needs.

Despite numerous reports that moved to investigation, at the time we were on campus in September 2022, CSU Bakersfield had not had a case that went to a hearing under the 2020 Title IX regulations.

F. Review of Case Files⁴

We reviewed samples of the following documents: Title IX Informal Resolution Agreement; DHR Investigation Reports, and Title IX Investigation Reports.

We note a lack of timeliness for most of these reports. In one instance, the final investigation report was issued two years and one month after the complaint was made, and another report was issued two years and 11 months from when the complaint was made. We note that the investigation that took nearly three years to complete was completed by an outside entity that we learned is no longer working with CSU Bakersfield in this capacity. We also reviewed an investigation report that was issued earlier this year, and

⁴ 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.

was completed eight months after the complaint was made. The external investigator was assigned to the case two months after the complaint came in to EIC.

Despite the Nondiscrimination Policy's timeframe requirement that investigations take 100 working days, the investigations typically take significantly longer. According to campus partners with whom we met, scheduling faculty for interviews is sometimes a challenge that can also prolong the process. Further we learned cases involving students can take a long time.

G. Community Feedback about EIC

We note that the Title IX Coordinator/DHR Administrator has fluency and training in the subject area, and we heard from many campus partners that the Title IX Coordinator has positive relationships across the campus within other offices. We recognize the multiple roles and duties the Title IX Coordinator holds, in addition to Title IX and DHR, and the scarce resources with which the Title IX Coordinator has to operate.

From others on campus, we heard that EIC does not engage regularly with the student body, that EIC does not make themselves known on campus, and the materials they distribute do not feel relevant to the students, and were described as "distancing." We heard that the grievance process is long and "exhausting." We learned of an instance in which a complainant decided not to participate in the university Title IX process at all, and went to local law enforcement instead. We learned that this choice was made out of frustration due to the process taking so long. Our recommendations include reviewing and revising EIC's internal protocols to prioritize efficient care and support and enhance the timeliness of investigations.

As we note above and elsewhere in the report, we learned about significant delays in responsiveness from EIC and delays in timeliness for processing complaints. We heard and observed that investigations are delayed, and during the investigation, cases are derailed and slowed down. We heard that there are delays even before cases proceed to investigation, and the investigation process takes longer than it should. From Title IX/DHR professionals, we learned that investigations take, on average, one year to complete. In one instance, we learned that following a student's complaint of sexual assault to EIC, the investigation did not begin for three months. We learned of another instance in which a student contacted EIC about a sexual assault; EIC's response was significantly delayed, insufficient supportive measures were put in place to separate the parties, and the complainant ultimately left the university. We heard that the lack of response, "left the student dangling, without a sense of what is happening." Constraints on staffing were

cited as the reason for the delay, and from our observations, it appears that too few staff, coupled with a lack of internal, formalized procedures, leads to delay and lack of responsiveness.

We learned about significant issues within some of the colleges and departments at CSU Bakersfield. Issues raised about deans and associate deans ranged from exhibiting preferential treatment for male professors, to bullying and mistreatment of women faculty. We learned that these concerns were brought to the attention of EIC, but they were determined not to meet the threshold of the policy. We also heard concerns about racism and bias from faculty members who noted that “there is white privilege and anti-black sentiment, and it is impacting the emotional well-being of our colleagues and leaves us wondering why did we even raise our hand.”

Finally, we learned that students may have a negative perception of EIC and its willingness to accept complaints, which leads to a feeling of “hopelessness” and being discouraged because their complaints were often dismissed at the threshold level without further inquiry.

We heard from administrators that they work well with the Title IX office and that the relationships are positive. However, we heard from constituents that timeliness and follow-through are challenges. Timeliness and follow-through challenges lead to lack of trust, and ultimately result in lower reporting numbers. We learned faculty distrust the administration on both race and gender issues given their perception that nothing happens when issues of gender and race are reported. We also heard that women faculty are afraid to speak up about being bullied for fear of retaliation.

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;⁵ (ii) adopt grievance procedures that are prompt and equitable;⁶ and (iii) publish a non-discrimination statement.⁷ In the sections below, we describe our observations of the university’s compliance with each

⁵ 34 C.F.R. § 106.8(a).

⁶ 34 C.F.R. § 106.8(b).

⁷ 34 C.F.R. § 106.8(c).

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,⁸ 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.⁹ 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.¹⁰ The Title IX Coordinator’s role and responsibilities should be clearly defined, and the institution must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the institution, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.¹¹ The Title IX regulations detail the responsibilities of the Title IX Coordinator, which include, among other things:

1. Receiving reports and written complaints;¹²

⁸ 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.

⁹ 34 C.F.R. § 106.8(a).

¹⁰ *Id.*

¹¹ *Id.*

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

2. Coordinating the effective implementation of supportive measures;¹³
3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;¹⁴
4. Considering the wishes of the complainant with respect to supportive measures, explaining the process for filing a formal complaint;¹⁵
5. Attending appropriate training;¹⁶
6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;¹⁷
7. Overseeing the prompt and equitable nature of any investigation or resolution, and;¹⁸
8. Overseeing effective implementation of any remedies issued in connection with the grievance process.¹⁹

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.²⁰ Generally, Title

¹³ *Id.*

¹⁴ 34 C.F.R. § 106.44(a)

¹⁵ *Id.*

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

¹⁷ 34 C.F.R. § 106.45(b)(1)(iii).

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

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

²⁰ These effective practices have been articulated, among other places, in a [Dear Colleague Letter](#) from the U.S. Department of Education’s Office for Civil Rights on April 24, 2015. Although this Dear Colleague Letter has since been rescinded, the underlying concepts described in the letter are still instructive. The 2015 Dear Colleague Letter stated, “The Title IX coordinator’s role should be independent to avoid any potential conflicts of interest and the Title IX coordinator should report directly to the recipient’s senior leadership” The Letter further instructed that “the Title IX coordinator must have the authority necessary to [coordinate the recipient’s compliance with Title IX] and, in order to do so, “Title IX coordinators must have the full support of their institutions . . . [including by] making

IX Coordinators and DHR Administrators should be positioned to operate with appropriate independence and autonomy, have sufficient supervision and oversight, and have direct or dotted reporting lines to senior leadership. The Chancellor's Office has published guidance regarding the role of campus Title IX Coordinators. Attachment B to the Systemwide Nondiscrimination Policy mandates that campus Title IX Coordinators "shall have authority across *all* campus-based divisions and programs (e.g., Human Resources, Academic Affairs, Student Affairs, Athletics, Housing, University Police, etc.) to monitor, supervise, oversee, and ensure implementation of [the Nondiscrimination Policy] in all areas" (emphasis in original). Attachment B further requires that all campus Title IX Coordinators and Deputy Title IX Coordinators be MPPs and "have the qualifications, authority and time to address all complaints throughout the campus involving Title IX issues."²¹ Finally, Attachment B recommends that all campus Title IX Coordinators "be someone without other institutional responsibilities that could create a conflict of interest (e.g., someone serving as university counsel or as a disciplinary decision maker)" and that they report to a supervisor who is a Vice President or higher.

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

CSU Bakersfield's Title IX Coordinator and DHR Administrator has been in the role for the past four years. The Title IX Coordinator and DHR Administrator contact information - and that of EIC – is displayed on a university website.

The Title IX Coordinator and DHR Administrator currently reports to the Chief Diversity Officer (CDO). The CDO reports directly to the President, though the CDO does not have the title of Vice President as required under the Nondiscrimination Policy. The CDO is a part of the President's senior leadership team, as such

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."

²¹ The Nondiscrimination Policy similarly defines campus DHR Administrators as "the [MPP] Employee at each campus who is designated to administer this Nondiscrimination Policy and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation." The Nondiscrimination Policy states that the DHR Administrator "may delegate tasks to one or more designees, provided that any designee shall be an MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority."

the Title IX Coordinator/DHR Administrator is sufficiently positioned in the institution to be steeped with the appropriate support and authority of senior leadership. However, we flag for review and evaluation the potential impacts associated with the blending of Title IX/DHR functions with institutional diversity efforts. Although protected status and diversity efforts may naturally overlap, a close examination reveals two distinct functions: Title IX and DHR legally require neutral responses to reports addressing prohibited conduct, the provision of supportive measures to all parties, prompt and equitable grievance processes, and the assurance of fair processes implemented without conflict of interest or bias. In stark contrast, diversity efforts involve proactive advocacy designed to build and maintain a diverse and inclusive campus community and culture through recruiting, retention, curricular development, programming, and support. The blending of these functions creates the potential for conflict, or the perception of conflict, when a proactive (by design) Chief Diversity Officer is overseeing incendiary fact-finding processes related to sexual, racial, or other protected status reports of discrimination and harassment. We recommend that CSU Bakersfield evaluate the effectiveness of this structure.²²

We do find, however, that CSU Bakersfield's current leadership in the role of the Chief Diversity Officer is a strength and asset to the university. The Chief Diversity Officer has deep experience at the university, and through that experience has built trust and respect across the campus. The Chief Diversity Officer had the forethought of structure to bring the areas of DHR, Title IX, and Clery, under one division, under the umbrella of the diversity and inclusion efforts. We further note that the experience and trust of the Chief Diversity Officer has led to the collaborative nature and cooperative spirit of "no sharp elbows" that we witnessed while on campus. The tone from the top influences the willingness to share among the multidisciplinary stakeholders. The CDO's role, and its positioning over DHR and Title IX, however, is not without its challenges. Diversity is much broader than discrimination or harassment based on gender,

²² A review of reporting line options for Title IX Coordinators at hundreds of institutions across the country reveals there is no "one size fits all." Many coordinators report to Presidents, Provosts, and various Vice Presidents (HR, Administration, Risk Management, Compliance, Student Affairs, Finance, and Diversity offices); that same range exists at the CSU. However, in light of the national shift and recognition of the vital importance of increased diversity efforts, many institutions are moving away from reporting structures to Chief Diversity Officers, given the myriad legal, social, and mass media issues that frequently emerge in the aftermath of Title IX and other protected status investigations. Although there is no uniform or unflawed structural approach, due to the varying needs, issues, and resources that exist at different colleges and universities, a structure in which the Title IX Coordinator reports to one or more senior leader(s), for example, to the leader(s) of Student Affairs, Human Resources and/or the Provost, with a dotted line to a President and/or a member of the President's Cabinet, is a preferred model. It is critical that the Coordinator be given the requisite elevation, both in structure and optics, that presents this role as the true leader of Title IX and DHR, with the gravitas associated with reporting to a VP or higher, with a dotted line to the President.

race, and other protected statuses, and there may be cases that present themselves in the DHR process that create challenges to the Chief Diversity Officer in her mission to advance equity and inclusion at the university.

The Title IX and DHR functions at CSU Bakersfield struggle to obtain sufficient resources to support effective implementation. EIC has only two staff dedicated to Title IX and DHR, and they both have multiple responsibilities beyond Title IX and DHR. Although CSU Bakersfield's investigation numbers are low compared to other CSU campuses, the number of reports and the numerous and complex federal and state requirements for this work call for additional staff. Although the precise positions and roles are not finalized, the university has committed to bring on additional staff. We learned that the university is seeking insight into planning for those roles through this engagement.

In terms of training, we observed the Title IX Coordinator/DHR Administrator has the necessary substantive subject matter fluency with respect to Title IX and DHR.

As discussed above, we observed potential concerns about the current reporting structure to the Chief Diversity Officer. Relatedly, the Equity, Inclusion, and Compliance Specialist has responsibilities for Title IX and DHR, but also works on diversity initiatives. If certain constituencies have significant distrust of the Title IX and DHR process, this could affect the officer's efforts and negatively impact the broader diversity work on campus.

B. Notice of Non-Discrimination

The Title IX regulations require that institutions publish a non-discrimination statement.²³ The statement must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and unions that:

1. The institution does not discriminate on the basis of sex in its education programs and activities, and that it is required by Title IX not to discriminate in such a manner;²⁴
2. The institution does not discriminate with respect to admissions or employment, and;

²³34 C.F.R. § 106.8(b)

²⁴ *Id.*

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.²⁵

CSU Bakersfield has a [Notice of Non-Discrimination on the Basis of Gender or Sex](#), which, consistent with the Title IX regulations, states that the university does not discriminate on the basis of gender or sexual orientation in its education programs and activities, including employment and admissions. According to the Notice of Non-Discrimination, this prohibition on discrimination extends to sexual harassment, sexual misconduct and gender based dating and domestic violence, and stalking. The Notice of Non-discrimination provides the required contact information, for the campus Title IX Coordinator and OCR, to individuals seeking to report sex discrimination. We accessed this document by searching "Non-Discrimination Notice" in the search bar on the main CSU Bakersfield website. We were unable to locate this notice linked anywhere on the CSU Bakersfield website.

The EIC webpage includes a similar [Notice](#), which includes the required information, but a second click is needed to access the OCR contact information. The notice is accessible on the university website for EIC, however, there is no direct link to either notice on most other university webpages, including the webpages for Admissions, Athletics, and Student Life.

Separately, within the DHR section for students, [CSU Bakersfield's EIC website](#) states that it is the policy of the CSU "that no Student shall, on the basis of any Protected Status, be unlawfully excluded from participation in, or denied benefits of, any CSU program or activity. Nor shall a Student be otherwise subjected to unlawful discrimination, harassment, or retaliation for exercising any rights under this executive order." The website states that Federal and State law prohibit discrimination "against a student based on the membership in a protected status. Protected statuses include: Disability; Sexual Orientation; Gender; Genetic Information; Nationality; age; Race or Ethnicity; Veteran Status; Religion." Within the DHR section for [faculty and staff](#), CSU Bakersfield's EIC website states that it is CSU policy "to provide equal opportunity for all persons regardless of: Race, Color, National Origin/Ancestry, Marital Status,

²⁵ 34 C.F.R. § 106.8(b)(2).

Religion, Gender, Gender Identity/Expression, Sexual Orientation, Disability, Veteran Status, Medical Condition, Genetic Information, Age (40 or over).”

The EIC website states that CSU Bakersfield “strives to be free from all forms of unlawful discrimination in all employment practices, including recruitment, selection, hiring, promotion, training, compensation, benefits, transfer, separation, and other terms and conditions, or privileges of employment.” However, CSU Bakersfield does not publish on any of its websites a broader Notice of Non-Discrimination on the basis of protected statuses other than sex and gender. Such a Notice, while not a requirement of Title IX, would be consistent with the purpose of Title VI and Title VII of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and other relevant federal and state laws prohibiting protected status discrimination, harassment, and retaliation.

C. Grievance Procedures

Finally, the Title IX regulations require educational institutions to “adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited [as sex discrimination under Title IX] and a grievance process that complies with [34 C.F.R. § 106.45] for formal complaints”²⁶ The regulations further require educational institutions to provide notice of the grievance procedures and process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the institution will respond to such a report or complaint.²⁷

CSU’s Chancellor’s Office maintains the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#). Consistent with its obligations under Title IX and other federal and state laws prohibiting protected status discrimination, harassment, and retaliation, this document sets forth the grievance procedures and process for resolving reports of sex discrimination, as well as other protected status prohibited conduct. Pursuant to 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”

²⁶ 34 C.F.R. § 106.8(c).

²⁷ *Id.*

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.

The CSU’s prohibition against certain consensual relationships is embedded within the Nondiscrimination Policy.²⁸ 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.

²⁸ Under Article II, Section F of the [Nondiscrimination Policy](#), a “Prohibited Consensual Relationship” is defined as “a consensual sexual or romantic relationship between an Employee and any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority.”

VI. Campus Coordination

We observed that EIC and its campus partners have a positive and collaborative working relationship. We noted that communication is not formalized, and works primarily on an *ad hoc* and relational level. As a result, gaps in information sharing will occur and impact the quality of informed and effective judgment. The university as a whole would benefit from the implementation of a structured and formalized multidisciplinary response team (MDT) to ensure that communications occur on a regular basis with all the necessary parties present. Key campus partners, meeting on a regular basis, can assist EIC make informed decisions about the university's response to reports. This team can review incoming reports to ensure that the appropriate support, resources, and accommodations are offered, and to facilitate informed decision-making. With a centralized review process, consistent application of policies and procedures and shared fluency among responsible campus partners will result.

The use of a shared case management system is also essential for coordinating and sharing information. We learned that as of September 2022, many campus partners were not using a case management system (including EIC), instead relying on individually created and locally housed information maintained in myriad and random formats. The use of a shared system can ensure that all partners are able to have real time access to the searchable information to inform confident decision-making. In order for EIC to effectively assess for informed responses, pattern, risk, and climate, access to a case management system used by Student Conduct, Faculty Affairs, and HR is vital.

A. University Police Department

The University Police Department (UPD) is a 24/7 police agency that has arrest powers and investigative capabilities. The UPD provides police and emergency services. The UPD has a memorandum of understanding (MOU) with the CSU Bakersfield PD regarding additional coverage and support. CSU Bakersfield PD has a dispatch and 24-hour coverage to assist UPD as needed.

UPD officers are trained to provide the Campus Advocate's information and other resources to complainants. Consistent with California Penal Code 293, UPD will honor a complainant's wish to maintain confidentiality and redact the complainant's name when reporting to Title IX.

UPD utilizes a community policing strategy. This enables officers to connect with students and campus members that they serve. Patrol officers are on foot, bicycles, or electric carts. According to UPD, the

campus community appreciates their work, and students like seeing UPD officers on campus. UPD credits the community policing model for this positive relationship, since the model is foundational to supporting the community.

B. Student Conduct

Under CSU Bakersfield's Dean of Students, the [Student Conduct Office](#) receives reports alleging violations of the Student Code of Conduct, conducts an investigation into those allegations, and depending on the outcome, will execute the University's Student Conduct Procedures. The Student Conduct Office's webpage contains a [flowchart](#) that maps the process of a student conduct incident report.

C. Housing and Residence Life

CSU Bakersfield's [Student Housing and Residence Life](#), serves the members of the student community who live on campus. Currently, staffing consists of an Interim Director of Student Housing, an Associate Director of Student Housing, and a student Housing Area Coordinator, as well as their staff, and Housing Resident Assistants. Residents on-campus are expected to adhere to Resident Life Policies (RLP) and the Student Code of Conduct. Student Housing and Resident Life follows a [judicial process](#) for reported allegations of violations of the RLP. Any reports related to harassment covered under the Nondiscrimination Policy are reported to the Title IX Coordinator and DHR Administrator. We note that the Title IX Coordinator and DHR Administrator currently only receives what Housing chooses to share. We recommend that the Title IX Coordinator and DHR Administrator have real-time access to all reports in order for EIC to effectively assess for informed responses, pattern, risk, and climate.

D. Faculty Affairs/Academic Affairs

The Provost and Vice President for Academic Affairs oversees the four academic schools, the seven administrative units in the academic division, and the Antelope Valley Campus. Faculty Affairs, a unit within the division of Academic Affairs, services the human resources needs of the university's academic personnel. Faculty Affairs handles grievances under the Collective Bargaining Agreement. In accordance with the current Collective Bargaining Agreement (CBA) between the California Faculty Association (CFA) and the CSU, the grievance procedures are held in abeyance until an investigation is fully completed under

the Nondiscrimination Policy.²⁹ While on campus, we learned that Faculty Affairs was beginning the process of digitizing their records. Faculty Affairs recently acquired a Maxient license which will enable Faculty Affairs to track issues over time.

As discussed below, we learned that Faculty Affairs is planning to hire a Professional Responsibility Coordinator, whose role would be to assist in handling the *other conduct of concern*, and in February 2023, Academic Affairs published [new policy guidance](#) “to provide clarity to faculty, staff, and MPPs in Academic Affairs related to maintaining respectful and accountable interactions. By deploying these changes, the goal is to improve incident/complaint management in the Office of Provost thereby improving institutional culture.”³⁰

E. Human Resources

[CSU Bakersfield Human Resources](#) (HR) is led by the Associate Vice President /Chief Human Resources Officer, who reports to the Vice President and Chief Financial Officer, Business and Administrative Services. HR oversees recruitment, compensation, benefits, and employee training and development for all the staff of CSU Bakersfield. According to the [HR Organizational Chart](#), HR has a complement of 21 staff, including the AVP. HR does not currently have a dedicated staff to handle employee relations issues.

Both EIC and HR report that they have a positive, and collaborative working relationship. We learned that the two offices communicate when a complaint touches both of their areas of responsibility, such as a grievance that alleges discrimination or harassment based on a protected category. Despite their collaboration on an as-needed basis, both offices would benefit from routine formal meetings and a shared case management system to increase coordination and collaboration for effective, informed and timely responses.

F. Clery Act Responsibilities

The Chief Diversity Officer serves as CSU Bakersfield’s [Clery Director](#). UPD, in conjunction with the Clery Director, is responsible for assessing whether a timely warning should be issued to the University

²⁹ Collective Bargaining Agreement Between CFA and the Board of Trustees of CSU; Unit 3: Faculty; Article 10.7

³⁰ Academic Affairs Conduct Guidance, Document Number: [AA.22.015](#). Effective Date: 2/21/2023. Also available here: https://policies.csub.edu/672353c1-cffb-4ea4-8018-27856067c058_cfc94f81-ada0-4a2b-b60d-fc6cda7991f6.html?v=74158&ip=prbibkutdka4qi3zpslnlw

community. UPD uses written assessment criteria for timely warnings, which serves as a record for why timely warnings were or were not issued. UPD also maintains the daily crime log within UPD's records management system. The Clery Director and UPD have worked together with other campus partners to identify campus security authorities (CSA) and ensure CSA reports are received.

The Clery Director is also responsible for compiling the [Annual Security Report](#).³¹

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. CSU Bakersfield provides the following resources dedicated to supporting student and employee well-being.

A. Confidential Advocate³²

At CSU Bakersfield, the confidential advocate has the title, Campus Advocate & Education Coordinator (Campus Advocate). The Campus Advocate is on campus through a contract with The Open Door Network, a local non-profit agency assisting individuals impacted by homelessness, domestic violence, sexual assault, child abuse, and human trafficking. As of June 2023, CSU Bakersfield's contract with the Open Door Network expired and was not renewed. The university is evaluating whether to make the position internal. Until the recent contract expiration, the Campus Advocate reported to the Chief Diversity Officer, so administratively, she was under EIC. The Campus Advocate describes the role on campus as working with survivors and providing the campus community with prevention education. The Campus Advocate is available to meet with staff, faculty, and students, and receives referrals from EIC. We note that the Campus Advocate is working on creating other pathways for referral and connection, such as meeting with department chairs. We also note that the Campus Advocate is working to strengthen organic referral channels, such as UPD and Housing. The Campus Advocate also provides trainings, working with the OVW Project Specialist, across campus. Additionally, the Campus Advocate provides individual, in-person training for students who request an accommodation for the mandatory Title IX training.

³¹ We did not assess Clery functioning as part of our assessment, as that was outside the scope of our review. Nonetheless, we recommend that the university apply the recommended documentation and coordination improvements to the intersecting and overlapping elements of Clery responsibilities.

³² The Confidential Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

B. Respondent Support

Like most other CSU universities, CSU Bakersfield 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 CSU Bakersfield identify a dedicated resource to address the unique needs of respondents in the grievance process.

C. Counseling Services

[CSU Bakersfield's Counseling Center](#) offers individual and group counseling, workshops, psychiatry services, general studies psycho-educational courses, and crisis intervention services to all regularly enrolled CSU Bakersfield students. The Counseling Center employs seven clinical counselors, and two administrative staff. For individual counseling, the CSUB Counseling Center utilizes a short-term counseling model, wherein students may receive 6 sessions of individual counseling at the center. If the student is in need of longer-term counseling, the Counseling Center will work with the student to identify appropriate community-based referrals. We learned that each Counseling Center counselor sees about 25 students per week for individual counseling, and by the end of the academic year, they have typically had 4,000 appointments.

D. Student Health Services

CSU Bakersfield's [Student Health Services](#) (SHS) offers basic health care to enrolled students, in a nationally accredited Ambulatory Health Clinic. Services offered include basic medical evaluation and consultations, laboratory services, x-rays, minor surgery, immunizations, general gynecological services, sexual health and family planning services, STI testing and treatment, and pharmacy services. SHS also offers health behavior change counseling, nutrition services, and athletic training services.

Through interviews, we learned that SHS does not provide sexual assault forensic exams. SHS will provide forensic exam information to any student who has experienced sexual assault (we learned there is only one medical provider in the local area who provides this service). SHS will provide a safe, private, and comfortable place for the student to wait for transportation to the provider for the forensic exam. We

learned that SHS works with UPD to provide transportation for the student. SHS is able to provide STI testing and prophylaxis following a sexual assault.

[Health Education and Wellness Promotion](#) at CSU Bakersfield offers education programming focused on the following areas: stress, nutrition, exercise, drug abuse prevention, sexuality, and birth control education. The main modes of presenting this information to CSU Bakersfield students are through group presentations and events. The Health Educator at CSU Bakersfield also participates in the freshman seminar class, CSUB 1029, which is an introduction to the campus and services available to students. The [Student Health Advisory Committee](#) (SHAC) is made up of students and some staff and faculty who serve as an advisory committee to SHS to assist in formulating and developing new programs and services to meet the needs of students.

E. Ombuds

CSU Bakersfield's [Student Ombudsperson](#) is also a faculty member who works with students in an informal process to mediate issues between students and the university. The Ombudsperson assists in resolving problems related to accessing facilities, grading policies, disputes about fees, student and instructor conflicts, and disciplinary issues. The Ombudsperson works with Title IX when the issues shared are allegations of retaliation or harassment. The Ombudsperson is confidential except in situations where CSU policy, California state law or Federal law require certain disclosures.

F. Additional Resources for Students

Students have access to a number of on-campus resources that EIC links to on their [website](#). In addition to those resources previously identified (the [Counseling Center](#), [SHS](#), and [Health Education and Promotion](#)), there are various [affinity groups](#) and other relevant on-campus resources, including:

- Caring Advocates and Responsive Engagement Team ([CARE](#) Team) under the Dean of Students Office, was started in the fall of 2022 in order to help students who may be struggling in a variety of ways. Staff and faculty referrals to the CARE Team include, for example, concerns about academic performance, financial difficulties, or mental health concerns. The team is staffed by a Case Manager and a Coordinator, who are trained to assess the referred student's needs and then help the student access those resources. The team will stay connected with the student to track progress. The CARE Team meets weekly to ensure that the assistance and support offered to students is coordinated among campus partners. The team is made up of representatives from the Counseling Center, Services for Students with Disabilities, Housing and Residence Life, UPD, and others.

- CSU Bakersfield’s Behavioral Assessment Intervention and Response Team ([BART](#) Team), also under the Dean of Students Office, is an early detection and intervention team that works collaboratively across campus to address concerning behaviors before they escalate. The types of issues that the BART Team is trained to assist with include aggressive or threatening behaviors, suicidal statements that do not require emergency intervention, and signs of distress, such as changes in behavior, or decline in functioning. Like the CARE Team, the BART Team has membership from across campus, including, the President’s Office, Student Affairs, Housing and Residence Life, Counseling Center, EIC, and Services for Students with Disabilities, to name a few.

A complete list of available resources can be found [here](#).

G. Additional Resources for Employees

CSU Bakersfield offers an [Employee Assistance Program \(EAP\)](#) for all employees of the University. The EAP provides a free, confidential referral and counseling service for employees and members of the employee’s household, including dependents living away from home. The EAP program, called “LifeMatters,” is available 24 hours per day.

VIII. Prevention, Education, Professional Development, Training and Awareness³³

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.³⁴ Even if responsibilities are shared with a Confidential Advocate, the Title IX Coordinator “remains primarily responsible for all campus-based prevention and awareness activities.”³⁵ The Nondiscrimination Policy further provides: Confidential Advocates may serve on campus-based task force committees/teams to provide general advice and consulting, participate in prevention and awareness activities and programs, and play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing campus-wide awareness and outreach activities, possibly including prevention

³³ The legal and regulatory framework, which sets forth requirements under federal and state law, is outlined in Section VII.B.2. of the Systemwide Report, Legal Framework re: Prevention and Education.

³⁴ See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

³⁵ See Attachment C: Confidential Sexual Assault Victim's Advocates.

activities.³⁶ This level of coordination and oversight is not occurring at CSU Bakersfield, nor at most universities across the system.

The prevention and education space at CSU Bakersfield is covered mainly by the OVW grant and the Campus Advocate. The [OVW grant](#) was awarded in 2018 to CSU Bakersfield to help reduce domestic violence, sexual assault and stalking on campus.³⁷ The OVW Project Specialist has created several trainings that he presents across campus, as requested or as required by some organizations. The topics are listed on the website as: *Dating Violence, Domestic Violence, Sexual Assault, & Stalking; Greek Organization: Gender-Based Violence; Latinas: Dating and Domestic Violence; LGBTQ+; Machismo: Engaging Latino Men in the Fight Against Gender-Based Violence; and Men in Leadership Roles*. The OVW Project Specialist works closely with the Campus Advocate, and they have co-presented on some topics. The Campus Advocate and the OVW Project Specialist collaborate to create events and programming for Domestic Violence Awareness Month and Sexual Violence Awareness Month activities across campus. We learned that they work together with other campus partners to provide training, programs, and activities during these months.

A. Employees

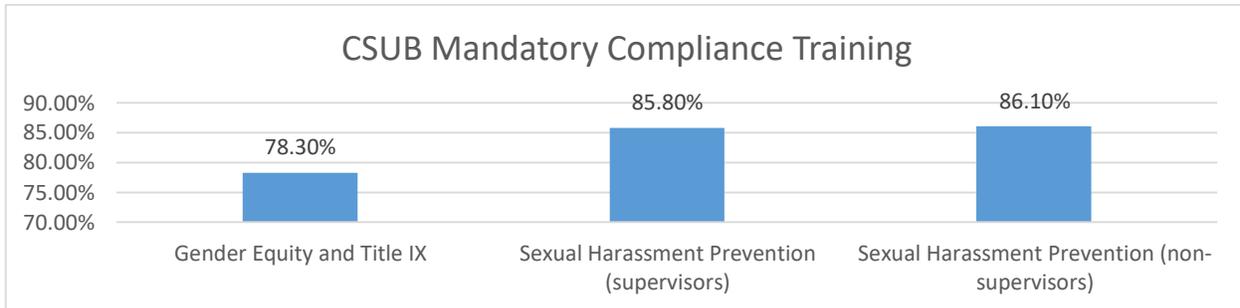
Consistent with California state law, CSU policy requires all CSU employees to complete the online CSU *Sexual Misconduct Prevention Program Training*, also known as *Gender Equity and Title IX*, on an annual basis (for at least 60 minutes). In addition to this annual requirement for all CSU employees,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

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

³⁶ *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.”

³⁷ The grant was created by Congress in response to challenges that campuses face in preventing and responding to domestic violence, sexual assault, and stalking.

The below chart, provided by the Chancellor's Office, shows the completion percentage for CSU Bakersfield for the 2022 calendar year:³⁸



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

B. Students

Under the Nondiscrimination Policy, all CSU Bakersfield students are required to take online Title IX online training every academic year. In addition to the online trainings, EIC provides an in-person training for student athletes, and with the Campus Advocate, there is an alternative training provided for students who request to receive the on-line compliance training in person. We heard from students that the online training required of them every year is basic, and does not teach anything more than what most students had to learn in high school. Students shared that the video scenarios and situations reflected in the online training are not applicable to their experience as students at CSU Bakersfield. We heard that the requirement for the training to take place at the beginning of the semester is also not ideal. That time of the year is busy for students, and they can easily miss the outreach about the requirement to take the training.

We learned that the first year seminar class, CSUB 1029, is a valuable resource for new students to learn about resources and options available at the university. We heard that this seminar highlights guest speakers from across campus to promote awareness of the resources available. We note that this course is an ideal way to make prevention education more accessible, as well as providing the information for students to access EIC and other resources.

³⁸ These percentages have been validated by each campus. Please note employees designated by their campus as "on leave" were removed from these final percentages.

C. Coordination

We note that there is no formal coordination of prevention and education programming across the campus. We recommend that the university hire a dedicated prevention and education coordinator and convene a Prevention and Education Oversight Committee, composed of campus partners, to provide a holistic approach to sexual and interpersonal violence prevention and address issues related to discrimination and harassment.

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.

CSU Bakersfield, as with the other universities in the CSU system, and nationwide, has had to contend with conduct issues that do not meet the threshold of policy violations under Title IX or DHR, but nonetheless are harmful to those on the receiving end. Across the country, higher education institutions are grappling with how to appropriately and effectively respond to issues related to civility, bullying, protected speech that negatively impacts others, and words and actions that may technically be misconduct, but do not meet the criteria of being sufficiently persistent, severe, and/or pervasive.

When we met with campus partners, *other conduct of concern* was discussed at length. We learned the conduct involved is often reported to EIC. If EIC determines the conduct does not meet the criteria of Title IX or DHR, EIC typically will make a referral to one of three places (depending on the individual implicated in the report): HR, Faculty Affairs, or Student Conduct. The Title IX Coordinator will make a phone call, or have a conversation with the AVP of Faculty Affairs, the AVP of Human Resources Management, or the Dean of Students and share that the conduct does not rise to the level of a potential policy violation and therefore cannot be investigated and remediated through EIC, but if more information becomes available

or additional conduct occurs, then the case should be sent back to EIC. This entire process as described is informal.

Campus partners shared that the lack of a process to handle these types of situations leads to individuals feeling unheard and demoralized. In this vein, we learned about significant issues within some of the colleges and departments at CSU Bakersfield. Issues raised about deans and associate deans ranged from exhibiting preferential treatment for male professors, to bullying and mistreatment of women faculty. We learned that these concerns were brought to the attention of EIC, but they were determined not to meet the threshold of the policy. We also heard from faculty members, that they experienced “anti-black sentiment” to an extent that it was “impacting the emotional well-being” of colleagues and noted that the lack of support or intervention left them wondering “why did we even raise our hand.” Other feedback related to *other conduct of concern* came from a campus partner citing the lack of a “general culture of inclusion and respect.” Hostile cultures in certain departments and divisions lead to staff and faculty leaving the university. We heard, “turnover is rampant due to these unresolved hostilities that are not adequately dealt with through the channels/[chain of command]. Things are swept under the rug, and many quit when nothing is done to the perpetrators. The issue isn't sexual, but bullying and hostile work environments that lead to discrimination and disrespect.”

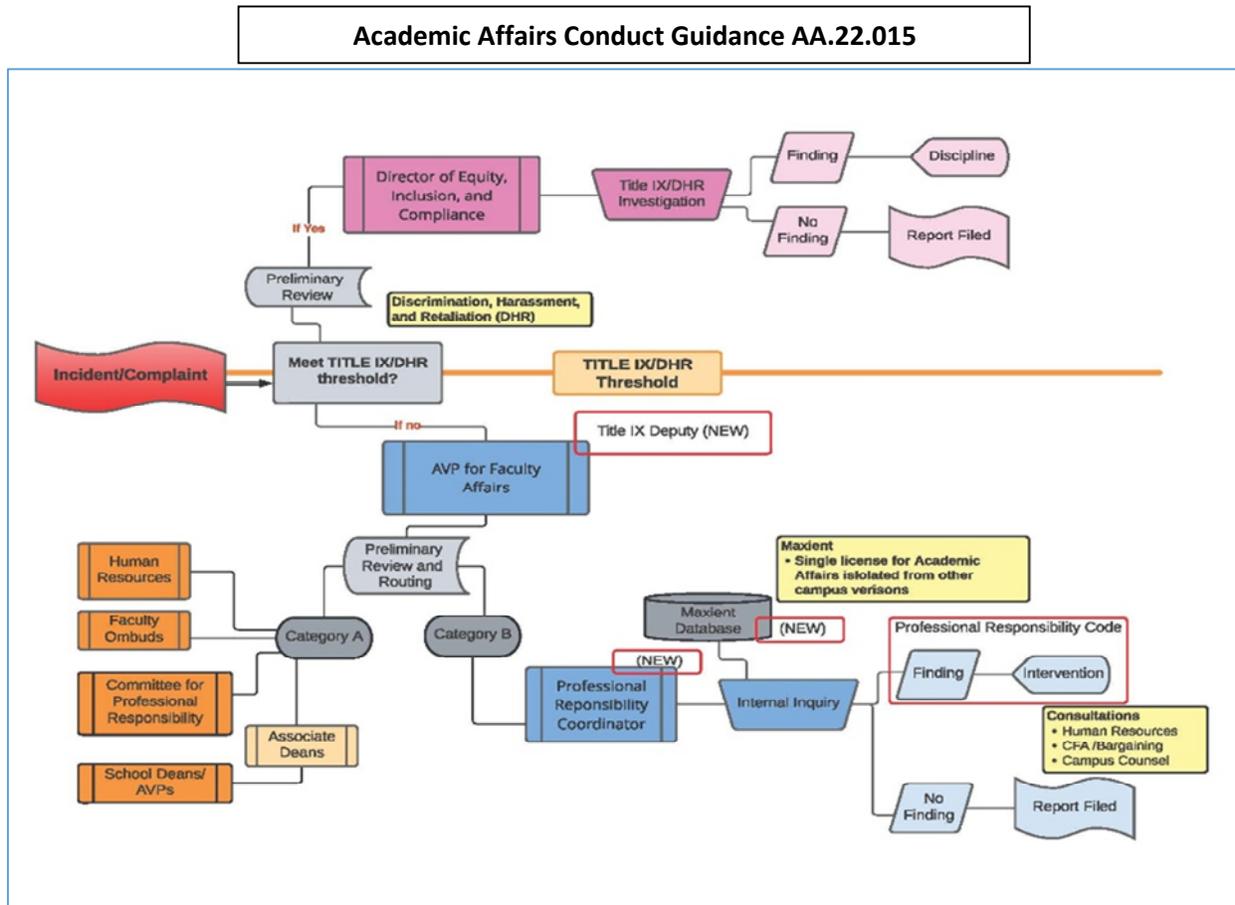
We learned from a university administrator who works directly with students, that students develop a feeling of “hopelessness” when instances of *other conduct of concern* are not addressed. The administrator told us that students go to EIC because they “want something to happen.” The same university administrator noted that students become discouraged because when they tell EIC what happened to them, “they explain using their own words, and the students’ language may not fit exactly within the policy.” The administrator spoke about how students will share this experience with other students, telling them how “cumbersome” and “confusing” the process is. We heard from another campus partner that students are afraid to speak up about *other conduct of concern* occurring within the classroom. We heard, “microaggressions were brought to my attention after the student completed the course. They don’t report it due to fear of retaliation against their grades.” This campus partner told us that “students complete surveys, but severally [*sic*] damaging feedback needs to be addressed, and the faculty/lecturer is allowed to carry on and not be reprimanded for their actions or inactions...”

During this review we learned that within Faculty Affairs, Human Resources and the Dean of Students Office, there is not a formalized mechanism to document, track for progressive discipline or a protocol to

address *other conduct of concern* reports. We also learned that Faculty Affairs is planning to hire a Professional Responsibility Coordinator, whose role would be to assist in handling the *other conduct of concern*. In February 2023, Academic Affairs published [new policy guidance](#). The guidance states that its purpose is, “to provide clarity to faculty, staff, and MPPs in Academic Affairs related to maintaining respectful and accountable interactions. By deploying these changes, the goal is to improve incident/complaint management in the Office of Provost thereby improving institutional culture.”³⁹ The guidance applies to [Appendix F of the Academic Handbook](#), *Statement of Professional Responsibilities for the Faculty*. The guidance sets out a newly proposed process for handling concerns that do not meet the threshold for Title IX/DHR investigations.

³⁹ Academic Affairs Conduct Guidance, Document Number: [AA.22.015](#). Effective Date: 2/21/2023. Also available here: https://policies.csub.edu/672353c1-cffb-4ea4-8018-27856067c058_cfc94f81-ada0-4a2b-b60d-fc6cda7991f6.html?v=74158&ip=prbibkutdka4qi3zpslnlw

The guidance includes a flowchart, depicted below:



The process is as follows: cases that may be Title IX or DHR-related go directly to the Title IX Coordinator and DHR Administrator for review. Cases that do not meet the threshold under the Nondiscrimination Policy are funneled to the AVP for Faculty Affairs. The AVP for Faculty Affairs conducts a preliminary review of each complaint, and then routes the complaints to one of two categories for handling the complaint, Category A or Category B. If the complaint is sent to Category A, it is processed by one of the following four units: HR, Faculty Ombuds, the Committee for Professional Responsibility, or the School Deans/AVPs/Associate Deans. If the complaint is routed to Category B, the new Professional Responsibility Coordinator applies their process to conduct an investigation and internal inquiry, resulting in either a finding, or no finding. If the investigation results in a finding, then the Professional Responsibility Coordinator works with the individual in an intervention. If there is not a finding, then a report will follow.

We encourage CSU Bakersfield to work closely with the Chancellor's Office to build on the strengths and lessons of these efforts to develop a formal process to address reports of *other conduct of concern* in other divisions of the university. This formal process should focus on a suite of resources to strengthen and expand competencies of conflict resolution, restorative justice, and other remedial practices. These efforts should be supported by ongoing professional development. Additionally, we recommend a centralized and anonymous reporting mechanism at the university level as well as the establishment of a formal triage and review process that ensures appropriate analysis, consistent documentation, tracking of reports and responses, and follow-up communication that reflects the intended care and values of CSU Bakersfield.

X. Recommendations

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

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

A. Infrastructure and Resources

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

1. Work with the Chancellor's Office to develop a project plan for addressing gaps and implementing recommendations
2. Share existing budget line information with the Chancellor's Office, including historic and anticipated annual fees for external investigators, hearing officers, and other Title IX/DHR related resources, as well as budget line information related to the confidential campus advocates, prevention and education specialists, and respondent resources (recognizing that these resources are typically outside of the Title IX/DHR budget)
3. Map functions within the Title IX/DHR program to ensure sufficient personnel to cover all core functions, including: intake and outreach, case management, investigations and hearings, informal

resolution, sanctions and remedies, prevention and education, training, data entry and analysis, administrative tasks, and additional resources to support legally-compliant, effective Title IX/DHR programs, as well as the essential care side of campus responses

- 3.1. In order to ideally manage the demand on the team, EIC should supplement the current team with the following personnel: a Deputy TIX Coordinator and Supportive Measures Specialist, a Deputy of Investigations, Administrative Support and Document Specialist, and Training Coordinator
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. Evaluate the effectiveness of the current EIC structure which houses both Title IX/DHR functions and institutional diversity efforts

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
6. Apply the documentation and coordination improvements made to incorporate the elements of effective Title IX and DHR practice, to the intersecting and overlapping elements of Clery responsibilities

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. Update the website to address the following concerns:
 - 3.3.1. On the Campus Advocate webpage, about one-quarter of the way down the page, the section labeled, "As a Survivor," contains the following problematic statement:

As a survivor of either Sexual Assault, Dating/Domestic Violence, or Stalking Victim/Survivor who seeks confidential services from [sic] the CSUB Campus Advocate: You have a right to file a confidential report with the Campus Advocate.

The use of the word “report,” indicates that the University is put on notice. When an individual meets with a confidential advocate, that interaction is explicitly not a report to the University, and is confidential.⁴⁰

- 3.3.2. In the FAQ section of the Campus Advocate website, we note this question and response:

IF I REPORT SEXUAL MISCONDUCT TO THE VICTIM ADVOCATE, WILL IT BE REPORTED TO THE POLICE, UNIVERSITY, IR [sic] MY PARENTS OR PARTNER?

No. Interactions with the campus advocate are confidential. No report can be made without your written consent. Only in extreme circumstances will it be reported, for example if there is a suspicion of child abuse, elder abuse, and harm to self or others.

We note this question and response is misleading. Again, a meeting with a confidential campus advocate is not a “report,” as it does not put the University on notice that an incident of sexual harassment has occurred.

- 3.3.3. The [CSU Complaint form](#) does not indicate where it should go once completed. It is a PDF, and is not able to be sent automatically
- 3.3.4. Clicking on Title IX on the footer of the home website – will bring up the [Title IX Notice of Non-Discrimination](#)
- 3.3.5. The [Rights & Options Booklet](#) is outdated: The link to rescinded White House instruction on page five; on page eight the top paragraph has misleading information regarding responsible employees; on page 17 – the policy is referred to as the Executive Order; the contact information on page five and page ten is outdated; definitions starting on page 16 are outdated.
- 3.3.6. This [Myths and Facts](#) document is dated June 23, 2015 – it is significantly out of date.
- 3.3.7. The [Myths and Facts](#) section embedded in the website is also outdated. This section should be reviewed to update language and references to the policy.
- 3.3.8. [TIX Investigation and Hearing Process Map](#): this is a helpful tool, but the document references the “Interim Policy”
- 3.4. Gather, evaluate, and update all existing informational materials, web resources, posters/flyers, social media information, and other public-facing communications about the Title IX/DHR program to ensure that those materials:

⁴⁰ Except in certain cases in which the advocate must report child abuse, harm to self or others, elder abuse.

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

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

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

1. Allot sufficient budget lines to ensure consistent, baseline funding for personnel, legally-required programming, and technology/learning management systems
2. Proactively coordinate with system-level subject matter experts to assist with education, training, materials and communications related to complex and difficult issues facing all CSU institutions
3. Designate one individual with specific oversight of all university prevention and education planning and programming, preferably a full-time role without other job responsibilities
 - 3.1. This coordinator should be tasked with oversight of and responsibility for all legally-required programming under Title IX, the Clery Act, and California law
4. Convene a university-wide Prevention and Education Oversight Committee to coordinate and align programming across the university
 - 4.1. The Committee should include all departments who provide training, prevention and education, including, at a minimum, representatives from the Title IX/DHR program, the confidential advocate, student affairs, student health, counseling, UPD, athletics, fraternity and sorority life, residential life, human resources and employee labor relations, academic/faculty affairs, DEI

professionals, identity-based affinity centers, university subject-matter experts, and staff, faculty, and student representatives

- 4.2. The Committee should include subcommittees, as determined by the Committee. Committees may focus on the needs of various constituencies (undergraduate students, graduate students, staff, administrators, and faculty) or the types of programming (compliance, professional development, prevention and education, bystander intervention, etc.)
- 4.3. The Committee should be charged with reviewing prevention program content, evaluating proposed programming or speakers, ensuring that prevention-related communications are reaching all constituents, and developing and implementing a mechanism for assessing effectiveness including by monitoring participation levels and measuring learning outcomes
5. With assistance from the Chancellor's Office, develop a strategic plan for university programming that identifies all training requirements under federal and state law and CSU policy, all constituencies and constituent groups in need of training, and all potential university partners that can collaborate to deliver content
 - 5.1. Constituent groups subject to required training should include students (undergraduate and graduate); targeted student populations (athletes, fraternity and sorority life, residential students, residence life student staff, international students, student leaders); senior leadership; faculty (deans, department chairs, leads, lecturers); staff (managers, supervisors); and campus partners who assist in the implementation of Title IX/DHR
 - 5.2. Identify all university partners who provide programming, including affinity and identity-based centers and student affairs personnel
 - 5.3. Identify opportunities for virtual and in-person engagement
 - 5.4. Develop core principles and standards for content development
 - 5.5. Build a university calendar that includes online modules, social norm campaigns, orientation for students and employees, recurring opportunities for programming, and awareness events
6. Facilitate a consistent communication plan each semester that includes dissemination of the policy, notice of nondiscrimination, reporting options and resources
7. Ensure that programming is coordinated, communicated and tracked
8. Develop a university website dedicated to prevention and campus programming that is kept current, facilitates distribution of prevention and education materials, and incorporates the opportunity for feedback and recommendations
9. Identify social media platforms and other vehicles for distributing programming information on a regular basis
10. In conjunction with the Chancellor's Office, expand professional development and training for faculty and staff, including senior leadership, deans, department chairs, managers and leads on Title IX and DHR; 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 Population⁴¹

The below chart reflects key metrics and demographic information for Bakersfield.

| California State University, Bakersfield | | | |
|---|--|---|-----|
| Location Information | | | |
| Location: Bakersfield, CA (pop. 410,647) ⁴² | County: Kern County (pop. 916,108) ⁴³ | Locale Classification: Large City ⁴⁴ | |
| University Information | | | |
| President: Lynnette Zelezny, Ph.D., M.B.A (January 1, 2018-present) | | | |
| Designations: Hispanic Serving Institution (HSI) ⁴⁵ | | | |
| Students – Enrollment Data⁴⁶ | | | |
| Total Number of Students | | 9,621 | |
| State-Supported | | Self-Supported | |
| Undergraduates | 7,964 | Undergraduates | 165 |
| Grad & Post Bac Students | 1,297 | Grad & Post Bac Students | 195 |
| Student Ethnicity⁴⁷ | | | |
| Overall (includes State- and Self-Supported) | | | |
| Hispanic / Latino | | 70% | |
| White | | 14% | |
| Asian | | 7% | |
| Race and Ethnicity Unknown | | 4% | |
| Black / African American | | 4% | |
| American Indian / Alaska Native | | 4% | |
| Two or More Races | | 2% | |
| International Student | | 1% | |
| Native Hawaiian / Other Pacific Islander | | <1% | |
| State-Supported (9,261 students) | | Self-Supported (360 students) | |
| Hispanic / Latino | | Hispanic / Latino | |
| 68% | | 44% | |

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

⁴² United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/bakersfieldcitycalifornia/PST045222> population estimate as of July 1, 2022.

⁴³ United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/kerncountycalifornia/PST045221>, population estimate as of July 1, 2022.

⁴⁴ Defined as a territory inside an urbanized area and inside a principal city with a 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>.

⁴⁵ 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>.

⁴⁶ California State University Enrollment Data, Fall 2022, Cal State Bakersfield: 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.

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

| | | | |
|---|-------------------------------|--|-------------|
| White | 14% | White | 30 |
| Asian | 7% | Race and Ethnicity Unknown | 14% |
| Race and Ethnicity Unknown | 4% | Asian | 5% |
| Black / African American | 4% | Black / African American | 3% |
| Two or More Races | 2% | Two or More Races | <1% |
| International Student | 2% | International Student | <1% |
| Native Hawaiian / Other Pacific Islander | <1% | Native Hawaiian / Other Pacific Islander | <1% |
| American Indian / Alaska Native | <1% | American Indian / Alaska Native | <1% |
| Other Student Demographics⁴⁸ | | | |
| Overall (includes State- and Self-Supported) | | | |
| First in Family to Attend College | 44% | | |
| % students who are traditionally underrepresented ⁴⁹ | 71% | | |
| % of undergrads who were Pell Grant recipients ⁵⁰ | 60% | | |
| % of students who live on campus ⁵¹ | 2% | | |
| % undergrads who are in a fraternity or sorority ⁵² | 3% | | |
| 4-year graduation rate for first-time FT freshmen ⁵³ | 30% | | |
| State-Supported (9,261 students) | | Self-Supported (360 students) | |
| Average Age | 24 | Average Age | 32 |
| Sex ⁵⁴ | 67% F; 33% M | Sex ⁵⁵ | 77%F; 23% M |
| First in Family to Attend College | 45% | First in Family to Attend College | 24% |
| % traditionally underrepresented ⁵⁶ | 72% | % traditionally underrepresented ⁵⁷ | 49% |
| Instructional Faculty⁵⁸ | | | |
| Total # of faculty | 640 | | |
| Tenure-track | 37.7% | | |
| Lecturer | 62.3% | | |
| % full-time ⁵⁹ | 53.98% | | |
| % part-time | 46.02% | | |
| Leadership body | Academic Senate ⁶⁰ | | |

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

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

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

⁵¹ 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>.

⁵² See https://www.bakersfield.com/bakersfield-life/12-things-about-csub-greek-life/article_40aa00aa-1f65-5648-8f01-31c2e747b8f5.html#:~:text=11%20About%203%20percent%20of,known%20only%20to%20its%20members (last visited May 22, 2023).

⁵³ California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with Cal State Bakersfield 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 CSU Bakersfield during the Fall 2018 (most recent complete 4-year term available).

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

⁵⁵ *Id.*

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

⁵⁷ *Id.*

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

⁵⁹ 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.

⁶⁰ Cal State Bakersfield Academic Senate. See <https://www.csub.edu/senate>.

| Staff⁶¹ | |
|--|--|
| Total # of staff | 579 |
| % full-time | 98.27% |
| % part-time | 1.73% |
| Collective Bargaining Units | |
| Unit 1 | Cal. Fed. of American Physicians and Dentists (UAPD) |
| Units 2, 5, 7, 9 | California State University Employees' Union (CSUEU) |
| Unit 3 | California Faculty Association (CFA) |
| Unit 4 | Academic Professionals of California (APC) |
| Unit 6 | Teamsters, Local 2010 – Skilled Trades |
| Unit 8 | Statewide University Police Association (SUPA) |
| Unit 11 | Academic Student Employees (UAW) |
| Athletics⁶² | |
| NCAA Division | I |
| NCAA Conference | Big West ⁶³ |
| Number of sponsored sports for '22-'23 academic year | 16 |
| Number of student athletes ⁶⁴ | 318 |

⁶¹ 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.

⁶² NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=94> except where noted otherwise.

⁶³ All sports are in the Big West Conference except Men’s and Women’s Indoor Track, which are part of the Mountain Pacific Sports Federation.

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

Appendix II Feedback from Survey

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

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

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

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

We received feedback from students, faculty, staff, and administrators in the form of survey responses. In total, we received 751⁶⁵ responses to the survey from CSU Bakersfield students, faculty, staff, and administrators as follows:

| Constituency | Number of Responses |
|--------------------------|---------------------|
| Undergraduate Student | 496 |
| Graduate Student | 87 |
| Staff | 81 |
| Administrator or Manager | 23 |
| Faculty | 79 |
| Other | 17 |

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:

- Retaliation and nondisclosure. Several survey respondents stated that they had experienced retaliation on a personal level, and one stated that they felt as though the instruction by the Title IX office to keep the investigation confidential prohibited them from telling their side of the story to peers or colleagues. One survey respondent requested the ability to meet at locations that were not the Title IX office itself, stating that it was damaging to be seen going to, or leaving the office, and could subject them to retaliation.
- Mandatory reporting and training. One survey respondent stated that they did not report claims made by a student because they did not know how and were never offered a form for doing so. Likewise, 52% of survey respondents did not recall being offered any Title IX training. One survey respondent stated that they did not pursue Title IX claims because they were unaware that mediation or voluntary resolution were available options.
- Power imbalances and tenured faculty. Some survey respondents expressed feeling as though tenured faculty members could commit many types of misconduct unscathed, and that those in positions of power rarely faced meaningful consequences. In particular, survey respondents

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

noted that personal friendships and relationships may create conflicts of interest when it comes to disciplinary action.

- Timeliness and transparency. Many survey respondents stated that there are significant numbers of complaints that the university had never responded to, and that communication about case status left much to be desired.
- Conduct outside the scope of Title IX or official policies. Many survey respondents stated that they experienced inappropriate conduct that, while unpleasant, did not rise to the level of harassment under Title IX and was not on the basis of a protected status. Survey respondents requested some recourse to address this kind of conduct.
- Students generally feel safe on campus. Safety ratings by survey respondents on campus were generally higher than many CSU Universities.
- Counseling Services perceived as inaccessible. One survey respondent noted that Counseling Services was unavailable in emergencies, and that they felt unable to refer students to them for support following harassment or assault.
- Individual reports of misconduct. One survey respondent stated that a staff member knew about, but had not investigated, a sexual assault. One survey respondent reported a specific instance of sexual exploitation and said the Title IX Coordinator had not adequately responded.
- Respectful communication. Some survey respondents stated that they felt as though the resources available to them did not communicate in a constructive way, and were condescending or unhelpful. Some survey respondents complained about EIC staff protecting the accused or dismissing concerns.
- Distrust in confidentiality. Several survey respondents stated that they did not believe reports would remain confidential.

Appendix III Title IX Metrics (Title IX Annual Reports)

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

As part of our review of the Title IX program at CSU Bakersfield, we reviewed the University's annual Title IX reports for years 2018-2019 through 2021-2022. These annual reports are posted online on CSU Bakersfield's Division of Equity, Inclusion, and Compliance website.⁶⁶ 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 Division of Equity, Inclusion, and Compliance 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

⁶⁶ <https://www.csub.edu/equity-inclusion-compliance/title-ix-annual-reports> (last visited May 9, 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. CSU Bakersfield verified the accuracy of the 2021-2022 annual Title IX report via email on April 25, 2023. CSU Bakersfield also added that, of the five open cases as of June 30, 2022, one resulted in a completed hearing, one resulted in a hearing process that was ongoing, and two resulted in investigations that were ongoing.

Finally, we recognize the significant impact of the global pandemic on colleges and universities across the country, including CSU Bakersfield. 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 Division of Equity, Inclusion, and Compliance 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 Conduct⁶⁷

| | 2018-2019 ⁶⁸ | 2019-2020 | 2020-2021 | 2021-2022 |
|--|-------------------------|-----------|-----------|------------------|
| Reports of Sexual Misconduct/Sexual Assault | - | 4 | 7 | 1 |
| Reports of Dating/Domestic Violence | - | 2 | 1 | 1 |
| Reports of Stalking | - | 4 | 0 | 3 |
| Sexual Exploitation* | - | - | - | 0 |
| Sexual Harassment* | - | - | - | 17 ⁶⁹ |
| Total # of Reports in Above Categories | 10 | 10 | 8 | 17 |
| * This data was not requested by the Chancellor’s Office prior to the 2021-2022 academic year. | | | | |

⁶⁷ This data does not include reports of incidents that fail to meet the threshold of Title IX misconduct.

⁶⁸ Data from 2018-2019 is aggregated into all complaint types in the University’s Annual Report.

⁶⁹ Because “sexual harassment” includes all of the above offenses, the total number of reports received is identical to the number of sexual harassment reports received.

B. Respondents' Roles⁷⁰

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

| | 2018-2019 | 2019-2020 | 2020-2021 | 2021-2022 |
|--|------------------|------------------|-------------------------|------------------|
| Reports in which the Respondent is a student | 6 | 5 | 4 | 7 |
| Reports in which the Respondent is an employee | 4 | 1 | 0 | 8 |
| Reports in which the Respondent is a third-party | - | 4 | 3 | 0 |
| Reports in which the Respondent is unknown | - | 0 | 6 | 1 |
| Reports in which the Respondent is unidentified | - | | | 1 |
| Total # of Reports in Above Categories | 10 | 10 | 13 ⁷¹ | 17 |

⁷⁰ Respondent Role totals may differ from Reported Conduct totals due to multiple allegations for one Respondent.

⁷¹ We note that the number of total reports does not equal the total number of reports within each category listed above; no explicit explanation for this differential is provided in the annual report for this year.

C. Case Outcomes⁷²

The below data reflect the collective outcomes of reports to the Division of Equity, Inclusion, and Compliance.⁷³

| | 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 | 5 | 6 | 13 |
| Reports in which the Complainant's identity was unknown to the Title IX Office | | | | |
| Reports in which the Complainant requested supportive measures or resources only | | 1 | 1 | |
| Reports that resulted in other outcomes (except formal investigation) | | 5 | | 3 |
| Reports that resulted in a formal investigation* | Data not available | 0 | 0 | 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. | | | | |

⁷² 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.

⁷³ As a reminder, in 2021-2022, the data included Sexual Exploitation and Sexual Harassment, which were not included in earlier years. Because of the manner in which data was gathered by the Chancellor's Office, it is unclear how the addition of these two categories of conduct impacted the number of outcomes.