

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

San José State University

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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 related concerns.

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 protocols; timeliness of case resolution, and factors impacting timely resolution; informal

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

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

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

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

This report outlines Cozen O’Connor’s assessment of the Title IX and DHR programs at San José State University (San José Report). The San José State review was led by Maureen Holland.² The San José Report supplements Cozen O’Connor’s Systemwide Report. The Systemwide Report and a Summary of the Systemwide Report can be accessed here: [The CSU’s Commitment to Change | CSU \(calstate.edu\)](#). The San José Report must be read in conjunction with the Systemwide Report, as the Systemwide Report provides a more detailed discussion about the assessment, the scope of the engagement, our approach to the issues, and common observations and recommendations across all 23 CSU universities. For ease of reading and efficiency, the content from the Systemwide Report is not replicated in each university Report. San José State is located in San José, CA. It has a student population of approximately 36,000, 3% of whom live on campus, and a workforce of approximately 3,500 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 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

² Pre-dating this assessment, San José State engaged Cozen O’Connor attorney Peter Lim to serve as the University’s Interim Title IX and Gender Equity Officer. To ensure that this assessment was conducted in the same manner as all others, Peter Lim did not participate in this assessment in any capacity other than as the Interim Title IX and Gender Equity Officer.

fear of retaliation or other concerns that might inhibit candor. Relevant de-identified and aggregated information from the interviews is set forth in each of our reports, and Cozen O'Connor has maintained notes of each interview as attorney work product within our confidential files; these files will not be shared with the CSU.

With respect to San José State, Cozen O'Connor conducted a three-day virtual visit on August 2, 4 and 5, 2022, and another two-day in person visit on March 20 and 21, 2023. We also held additional meetings via Zoom. In total, Cozen O'Connor conducted 36 meetings with more than 70 Title IX and DHR professionals, administrators, and other key partners, some of whom we spoke to on multiple occasions. These meetings included interviews with the following individuals and departments (identified by role):

- University President
- Provost and Senior Vice President for Academic Affairs
- Vice President for Strategy and Institutional Affairs & Chief of Staff
- Student Affairs and Student Involvement
 - Vice President for Student Affairs
 - Associate Vice President for Campus Life
 - Director of Student Involvement
- University Personnel
 - Senior Associate Vice President for University Personnel
 - Senior Director of Employee Relations, Retention and Equity Opportunity/DHR Administrator
- University Police
 - Chief
 - Captain, Patrol Division
 - Records Unit
- Director of Clery Compliance and Strategic Campus Safety Initiatives
- Housing and Residential Life
 - Executive Director
 - Director
 - Assistant Director
- Chief Diversity Officer and Director of the Office of Diversity, Equity and Inclusion
- Director of the PRIDE Center and Office of Gender Equity
- Interim Director of the Accessible Education Center
- Student Wellness Center
 - Associate Vice President for Health, Wellness and Student Services
 - Executive Director, Student Health
 - Executive Director, Student Wellness Center
 - Senior Director, Counseling and Psychological Services
 - Wellness and Health Promotion Coordinator
- Athletics
 - Athletics Director
 - Senior Associate Athletic Director for Student Wellness and Leadership Development

- Director of Student Conduct and Ethical Development
- Title IX and Gender Equity Office
 - Interim Title IX and Gender Equity Officer/Title IX Coordinator
 - Interim Deputy Title IX Coordinator
 - Title IX Analyst
 - Interim Title IX Project Manager
 - Title IX Investigators
- Campus Survivor Advocate
- Student Ombudsperson
- University Counsel

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

During our campus visit, Cozen O'Connor met with representatives from Unit 3 (California Faculty Association) (8 attendees), Units 2, 5, 7 and 9 (CSU Employees Union) (5 attendees), Unit 4 (Academic Professionals) (2 attendees), Unit 6 (Teamsters) (3 attendees), and Students for Quality Education (SQE) (2 attendees). Cozen O'Connor also met with the Staff Council Executive Committee (4 attendees), the Staff Council (40 attendees), individual staff members (5 total), individual faculty members (6 total), and the Associated Students President and Vice President.

In December 2022, we asked each of the 23 universities to disseminate an invitation to participate in an online survey. University presidents and the Chancellor's Office communicated the availability of the survey to all faculty, staff, and students at the university. The survey was open from December 2022 through February 2023. In total, we received 1,445 responses to the survey from San José State students, faculty, staff, and administrators. A summary of the survey response rate and data is included in Appendix II.

III. Summary of Findings and Recommendations

This review began approximately ten months after the U.S. Department of Justice (DOJ) and San José State reached an agreement to enhance the university's Title IX function and institute measures to address concerns arising from a series of matters involving a former university athletic trainer who was found to have sexually harassed and sexually assaulted female student athletes in the course of his employment. In September 2021, San José State and the DOJ shared the DOJ's public letter of findings and the resolution

agreement between the DOJ and San José State. San José State also created and has maintained a [website](#) regarding the DOJ's investigation and findings, San José State's own external investigation and findings, and answers to frequently asked questions. Following the resolution agreement, the university experienced a departure of its then-President, Mary A. Papazian, Ph.D., at the end of the Fall 2021 semester. From December 2021 to January 2023, Stephen Perez, Ph.D., served as Interim President. The current President, Cynthia Teniente-Matson, Ph.D., began her presidency in January 2023.

Throughout this assessment, and across these leadership transitions, we have observed a commitment from the university to improving the Title IX and DHR functions. The university has undertaken national searches for a permanent Title IX and Gender Equity Officer and Deputy Title IX Coordinator and has dedicated significant resources to the Title IX and Gender Equity Office to improve its functioning, visibility, and accessibility to all members of the university community. We hope that this report and our recommendations will provide a roadmap to the university as it works to cultivate trust and enhance the functioning of its Title IX and DHR programs.

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

Combine or Realign Title IX and DHR Functions, Build Infrastructure, and Address Trust

Gap: San José State is one of four universities in the CSU system with separate Title IX and DHR offices and personnel. At San José State, the Title IX and Gender Equity Office is a standalone unit, centrally-located on campus, with six staff solely dedicated to the Title IX function; in contrast, the DHR program has no solely dedicated staff and is housed within University Personnel (the university's combined Human Resources and Faculty Affairs functions). The DHR Administrator has many other significant responsibilities at the university, including overseeing recruitment and onboarding, employee relations, and whistleblower and whistleblower retaliation reports. These differences in structure and resourcing have led to different approaches to implementing the Nondiscrimination Policy between Title IX and DHR. Significant investments in infrastructure, branding and communication have elevated the university community's knowledge and awareness of the Title IX and Gender Equity Office, whereas the DHR program remains relatively unknown. Moreover, the Title IX and Gender Equity Office recently moved into a centrally-located space on the first floor of Clark Hall, which is accessible and near other

highly-utilized buildings including the Student Union; in contrast, the DHR Administrator is located within the University Personnel suite on the second floor of the Administration Building. We recommend combining or realigning Title IX and DHR functions to increase resource-sharing, build awareness of DHR, and support the DHR function in adapting all of its communications and processes so that they are more closely aligned with those of the Title IX and Gender Equity Office.

Based on our community engagement during the 2022-2023 academic year, we observed that the university community's perception of Title IX and DHR programs at San José State, while improved, remains negatively impacted by the university's recent experiences, which include the events described above as well as historical instability in the Title IX Coordinator role. This perception is compounded by other high-profile incidents at other universities within the CSU system and at the Chancellor's Office. Although San José State has invested heavily in growing its Title IX and Gender Equity Office – including hiring an external Interim Title IX and Gender Equity Officer, increasing its staff size, and instituting new templates, workflows, and protocols – some members of the San José State community continue to express distrust and skepticism about the Title IX function, particularly while the office has external interim leadership. Our recommendations address the need for increased communication, engagement, and collaboration, and the need to involve faculty, staff, and students in ongoing efforts to raise awareness and change campus culture.

Prevention and Education: At San José State, prevention and education is a collaborative effort distributed across a group of university partners including Title IX and Gender Equity Office, the Wellness and Health Promotion Coordinator, the Campus Survivor Advocate, the PRIDE Center and the Gender Equity Center, and Student Affairs. The Title IX and Gender Equity Office has developed tools to track and manage training and awareness efforts, including a continuously updated spreadsheet of all in-person and online synchronous trainings it provides to various audiences, including incoming first-year undergraduate and graduate students, returning students, transfer students, members of the University President's cabinet, athletics employees, faculty, department chairs, directors, Resident Advisors, international students, Vice Presidents and Associate Vice Presidents, teaching assistants and graduate assistants, student-athletes, student

union employees, academic advisors, and other audiences. The Title IX and Gender Equity Office has delivered more than 150 training sessions to university constituents between June 2022 and May 2023.

While these efforts have had a significant impact on awareness and have resulted in an increase in reporting, they do not constitute the kind of primary prevention, education, and professional development programming that would be possible with more dedicated resources and focused attention to strategic planning across constituencies and topics. We recommend that San José State build a formal prevention and education program, including a dedicated Prevention Coordinator and a university Prevention and Education Oversight Committee, to address issues related to discrimination and harassment, including sexual and gender-based harassment and violence. We recommend that the Prevention Coordinator work with Title IX/DHR personnel at the Chancellor's Office, University Counsel, and the Title IX Coordinator/DHR Administrator to map all federal, state, DOJ-related and other requirements related to prevention programming, including the topics to be covered, the audiences to receive training, the frequency of the training, and the modality, if specified. After dedicated resources are in place, we recommend that the Prevention and Education Oversight Committee and prevention coordinator focus on developing programming that goes beyond mere legal compliance and focuses on evidence-based effective prevention work. We encourage the Prevention and Education Oversight Committee to consider curricular or credential-based options and to consider how to incentivize participation and engagement.

Responding to *Other Conduct of Concern*:³ Across universities in the CSU system, we observed the significant impact of *other conduct of concern* on the learning and working

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

- 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.

environment, along with underdeveloped systems to address such conduct. At San José State, we understand that the Title IX and Gender Equity Office and the DHR Administrator address *other conduct of concern* by providing supportive measures and resources and by making referrals to other units as appropriate. We also understand that, while these offices have taken on the responsibility for addressing *other conduct of concern*, there remains an insufficient system for tracking reports, evaluating concerns in a coordinated and multidisciplinary manner, communicating between offices to plan responses, and ensuring follow-through. Campus community members shared their experience that, historically, when something has been determined not to “rise to the level” of a Nondiscrimination Policy violation, they have received oral feedback that “nothing can be done.” We recommend that San José State work closely with the Chancellor’s Office and CSU’s Office of General Counsel to develop a formal process to address reports of conduct that are not reported to have been on the basis of protected status or are found not to rise to the policy thresholds for discrimination or harassment.

IV. Title IX and DHR Programs

Each university in the CSU system has personnel responsible for implementing the Nondiscrimination Policy. At 19 of the 23 universities, those personnel are part of a unified office that addresses reports of sex and gender-based conduct (Title IX) and discrimination, harassment and retaliation on the basis of other protected statuses (DHR). San José State currently has separate Title IX and DHR programs. As discussed below, due to differences in resourcing and operations of the Title IX and DHR functions, we recommend that the university either combine Title IX and DHR into a centralized office or increase resources and align operations so that the DHR program functions as the same high level as the Title IX program.

A. The Title IX and Gender Equity Office

[San José State’s Title IX and Gender Equity Office](#) is responsible for responding to reports of discrimination or harassment on the basis of gender, which means sex and includes sexual orientation, gender identity, gender expression, sex stereotyping, pregnancy childbirth, breastfeeding, or any related medical conditions that may violate the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence and Retaliation](#) (Nondiscrimination Policy). In addition to responding to reports, the office provides training as required by federal and state law and

the Nondiscrimination Policy to students, faculty, and staff; develops and delivers prevention, education, and awareness programming in partnership with other units; oversees the provision of supportive measures; ensures the implementation of the Resolution Agreement between the university and the DOJ, as discussed above; ensures accurate and contemporaneous documentation of communications, key decisions, and process steps in response to reports; and provides strategic leadership and subject-matter expertise on Title IX issues affecting the university community.

1. Infrastructure

The staffing level of the Title IX and Gender Equity Office increased over the course of our review. In August 2022, the office had four employees — an Interim Title IX and Gender Equity Officer, an Interim Deputy Title IX Coordinator, a Title IX Analyst, and an Interim Title IX Project Manager. As of the date of this report, the Title IX and Gender Equity Office has a staff of six, including the above personnel plus two Title IX Investigators. The current Interim Title IX and Gender Equity Officer and Interim Deputy Title IX Coordinator⁴ began in their roles in July and June 2022, respectively. The Title IX Analyst was hired in February 2022; the Interim Title IX Project Manager was hired in July 2022; and the Title IX Investigators were hired in September 2022 and January 2023. The Title IX and Gender Equity Officer reports to the Vice President for Strategy and Institutional Affairs & Chief of Staff. Currently, the Title IX and Gender Equity Office has searches underway to replace the Interim Title IX and Gender Equity Officer and Interim Deputy Title IX Coordinator with permanent internal personnel.

As currently structured, the Title IX and Gender Equity Officer is responsible for oversight of the office, including supervising and managing intake, initial assessment, supportive measures, investigations, informal resolutions, hearings, and sanctions processes. The Deputy Title IX Coordinator and Title IX Analyst are jointly responsible for monitoring new reports that come in through email, phone, text message, or otherwise; sending prompt outreach to a complainant upon receipt of a report; maintaining documentation kept in the central recordkeeping system (Maxient); and conducting intake meetings. The Title IX Project Manager is responsible for creating and maintaining the Title IX training calendar, presentation slide decks and informational materials, the office's case tracking system and other custom-built tools, ensuring the integrity of information maintained in Maxient, and serving as the Hearing

⁴ The Interim Deputy Title IX Coordinator left her role, effective July 1, 2023; however, she remained in the role throughout the pendency of our assessment. We understand that the university has an active search for the Deputy Title IX Coordinator role.

Coordinator to provide logistical support during Title IX hearings. The Title IX Investigators are responsible for conducting prompt and equitable investigations, facilitating the parties' review of all evidence that is directly related to the allegations, and preparing investigation reports that fairly summarize all relevant evidence.

The Title IX and Gender Equity Office receives and addresses a high volume of cases.⁵ In the prior academic year, 2021-2022, the office addressed a total of 256 reports. The university reported that the volume of Title IX and Gender Equity Office reports for 2022-2023 was 27% higher than in 2021-2022. As of May 9, 2023, the Title IX Investigators were actively investigating approximately 15 formal complaints. The Interim Title IX and Gender Equity Officer reported that, at any given time, the Title IX and Gender Equity Office is monitoring approximately 200 cases and providing supportive measures to the involved individuals, including student, faculty, and staff complainants and respondents.

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

2. Reporting Options

There are multiple pathways for individuals to report to San José State's Title IX and Gender Equity Office, including via email to titleix@sjsu.edu, via phone call on weekdays between the hours of 8:00 a.m. and 5:00 p.m., via text or voice call after-hours, in person on the first floor of Clark Hall during normal business hours, or via an online incident reporting form which generates a report in [Maxient](#). Individuals may also share concerns with a responsible employee who must then report all known information directly to the Title IX and Gender Equity Office via email, phone, after-hours voice or text, in person, or via [incident reporting form](#).⁶

⁵ We note that when the Interim Title IX and Gender Equity Officer first joined the university, there was a significant backlog of reports where there was no indication that any outreach had been conducted. This backlog, along with the instability in the office, has contributed to a negative perception.

⁶ The CSU System publishes an online Complaint Form as Attachment F of the Nondiscrimination Policy.

The online reporting form explicitly states that users may submit information anonymously. It instructs users that all information submitted will be directed to the Title IX and Gender Equity Office, but that the information will not automatically trigger an investigation. As described in the Systemwide Report, the online reporting form, as written, requires responses to certain sections and asks for detailed information such that it might discourage a complainant from completing the form.

3. Case Processing

After the Title IX and Gender Equity Office receives a report, the Deputy Title IX Coordinator or the Title IX Analyst promptly sends email outreach to the identified complainant. This outreach is based on a template that is consistently used across cases but adapted to account for all known information and the source of the report. The outreach email includes an invitation to meet for an intake, information about reporting and resolution options, and the availability of supportive measures and resources with or without the filing of a formal complaint. Attached to the outreach email are a copy of the Nondiscrimination Policy, the applicable Procedures, and a brochure including information about the Campus Survivor Advocate, CAPS, and other on- and off-campus resources. If the report concerns Sexual Misconduct/Sexual Assault, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking, the outreach communication also includes Attachment D, which is a CSU document titled, “Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Sexual Exploitation, Dating And Domestic Violence, And Stalking.”

When a report comes to the Title IX and Gender Equity Office through a third-party reporter such as a responsible employee, the Title IX and Gender Equity Office also sends an email to the third-party reporter thanking them for contacting the office and describing the next steps that will occur. The outreach to third-party reporters also clarifies that the Title IX and Gender Equity Office may be restricted from sharing further information due to privacy considerations.

If an identified complainant does not respond to the Title IX and Gender Equity Office’s initial outreach, the office makes at least two additional attempts to contact the complainant through email. Depending upon the nature of the report and how it was made, the office may attempt to contact the complainant by phone or make outreach through the third-party who initially relayed the report. All outreach efforts are documented in the case file in Maxient.

The Title IX and Gender Equity Office conducts an initial assessment of all reports and makes all required disclosures including those related to Clery and child abuse reporting laws. The initial assessment includes a review of all known information including the nature and circumstances of the reported conduct, any information about the parties and/or the conduct maintained by other offices or kept in other recordkeeping systems, and any information indicating an immediate or potential safety concern, threat, or other risk of harm. The Title IX and Gender Equity Office meets every other week with key university partners including University Counsel, University Police, Student Conduct and Ethical Development, University Personnel, and other units as necessary to discuss reports and ensure informed decision-making based upon all known and available information.

Intake meeting with complainants are generally conducted by the Deputy Title IX Coordinator or the Title IX Analyst. Intake meetings are guided by use of a written checklist for consistency and coverage of all necessary topics including the nature of the report, the identities of the individuals involved, availability of medical care, ability to report to law enforcement, importance of preserving evidence, right to advisor of choice, prohibition against retaliation, process options, evidentiary standard, supportive measures, amnesty for personal drug or alcohol use, and the availability of Campus Survivor Advocate and other confidential resources.

San José State's Title IX and Gender Equity Office uses legally-compliant and neutral templates and custom-built tools to track supportive measures, timeframes for resolution, communications about good cause delays, identities and affiliations of parties, and other critical information about reports and responses. All case information is maintained in Maxient, which is updated in real time by members of the Title IX and Gender Equity Office team. San José State uses a combination of internal and external investigators and maintains oversight over all investigations whether they are conducted by internal or external personnel. A member of the Title IX and Gender Equity office reviews each investigation report to assess for clarity and to ensure that it contains all necessary elements. San José State uses external hearing officers who have contracts with the CSU system. A member of the Title IX and Gender Equity Office also reviews each written determination to assess for comprehensiveness, and to ensure that the basis for the hearing officer's findings are clearly and sufficiently articulated.⁷ To assess timeliness,

⁷ We reviewed reports and written determinations which contained the Title IX and Gender Equity Office's comments and suggestions. We found these comments to be consistent with sound practices in process oversight while also being appropriately deferential to the hearing officer as the finder of fact.

efficiencies in process, causes of delay, and communications with parties throughout the pendency of a process, we reviewed a representative sample of Title IX cases⁸ provided by San José State as well as a spreadsheet tracking key timeframes as maintained by the Title IX and Gender Equity Office. Based on those sources of information, we did not identify concerns about timeliness, responsiveness, or communications.

B. DHR Administrator

The DHR Administrator, who is the Senior Director of Employee Relations, Retention, and Equal Opportunity within University Personnel, is responsible for addressing reports of discrimination, harassment, or retaliation on the basis of all protected statuses other than sex or gender.

1. Infrastructure

University Personnel (UP) is the omnibus office for all HR-related functions at San José State, including recruitment and retention, employee benefits, workplace investigations, labor relations, faculty affairs, and academic employee relations. The DHR Administrator reports to the Senior Associate Vice President for University Personnel. The DHR Administrator has three direct reports, including the Manager of Recruitment and Retention, the Manager of Employee and Labor Relations, and an Investigator. In addition to her responsibilities over the DHR function, the DHR Administrator has many other university-wide responsibilities including overseeing and managing recruitment and onboarding, managing the employee relations functions, and addressing whistleblower and whistleblower retaliation complaints. She has worked at San José State in University Personnel for over ten years.

The [Office of Equal Opportunity \(OEO\)](#) within University Personnel, which houses the DHR function, receives approximately 55 reports of potential discrimination, harassment, or retaliation per year.⁹ About 12 reports per year are formally investigated by DHR. The DHR Administrator reported that the majority of reports made to DHR are reports of bullying or unprofessional conduct that are not necessarily connected to a protected status. Throughout this review, there have been significant concerns about DHR

⁸ 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.

⁹ This number does not include reports that do not constitute alleged violations of the Nondiscrimination Policy, which OEO refers to other campus partners.

reports being routed to another campus office – the [Office for Diversity, Equity and Inclusion \(ODEI\)](#) within the President’s Office – instead of to OEO in University Personnel.

2. Reporting Options

There are email, phone and in-person reporting channels for individuals to raise concerns to OEO, although those channels are difficult to find and unclear. The university’s [Equal Opportunity website](#) is a list of links, including “Discrimination & Harassment Complaints for Employees & Third Parties” and “Discrimination & Harassment Complaints for Students.” Those links go to pages that, in turn, link to the systemwide Nondiscrimination Policy, and point users toward a Complaint Form (Attachment F to the Nondiscrimination Policy). There is no clear statement about when and how to report, whether responsible employees are required to report, how to submit the online Complaint Form, or where one might go if they have questions. We recommend either a unified reporting portal for all conduct that may fall under the Nondiscrimination Policy or enhancements to the DHR reporting websites so that they mirror the resources, explanations, and visibility of the Title IX and Gender Equity reporting website.

3. Case Processing

After OEO receives a report, a DHR official sends outreach to the complainant. All DHR outreach is based on an adaptable template. The DHR Administrator recently updated that template to mirror the Title IX outreach template. The DHR outreach email includes an invitation to meet for an intake, information about reporting and resolution options, and available resources.

When a report comes to OEO through a third-party reporter such as a responsible employee, a DHR official also sends an email to the third-party reporter thanking them for contacting the office and describing the next steps that will occur. The outreach to third-party reporters also clarifies that OEO may be restricted from sharing further information due to privacy considerations.

The DHR Administrator conducts an initial assessment of all reports which incorporates a review of all known information including the nature and circumstances of the reported conduct, any information about the parties and/or the conduct maintained by other offices or kept in other recordkeeping systems, and any information indicating an immediate or potential safety concern, threat, or other risk of harm. The DHR Administrator meets every other week with key university partners, University Police, Student

Conduct and Ethical Development, the Title IX and Gender Equity Office, and other units as necessary to discuss reports and ensure informed decision-making based upon all known and available information.

The DHR Administrator or other DHR official conducts intake meetings with complainants to determine whether the reported conduct constitutes a potential violation of the Nondiscrimination Policy. The DHR Administrator reported that, of the approximately 55 reports the office received in 2021-2022, most closed at intake after the office discovered that the reports did not involve potential protected status discrimination or harassment but instead constituted grade disputes, concerns about supervision, or other kinds of conduct outside the scope of the DHR function.

San José State's DHR administrator uses customized versions of the Chancellor's Office templates to draft communications. All case information is maintained in Maxient, which is updated in real time by members of the DHR team. San José State uses a combination of internal and external investigators and maintains oversight over all investigations whether they are conducted by internal or external personnel. We did not identify concerns about timeliness, responsiveness, or communications in the sample cases we reviewed. However, we note that we have limited data regarding DHR responses because of the overall low number of DHR reports and formal resolutions.

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;¹⁰ (ii) adopt grievance procedures that are prompt and equitable;¹¹ and (iii) publish a non-discrimination statement.¹² In the sections below, we describe our observations of the university's compliance with each of these core Title IX obligations. Although the implementing regulations and regulatory frameworks are not as prescriptive under other federal and state laws that address protected status discrimination,

¹⁰34 C.F.R. § 106.8(a).

¹¹34 C.F.R. § 106.8(b).

¹²34 C.F.R. § 106.8(c).

harassment, and retaliation,¹³ 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.¹⁴ 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.¹⁵ 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.¹⁶ The Title IX regulations detail the responsibilities of the Title IX Coordinator, which include, among other things:

1. Receiving reports and written complaints;¹⁷
2. Coordinating the effective implementation of supportive measures,¹⁸

¹³ 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.

¹⁴ 34 C.F.R. § 106.8(a).

¹⁵ *Id.*

¹⁶ *Id.*

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

¹⁸ *Id.*

3. Contacting complainants to discuss the availability of supportive measures, with or without the filing of a formal complaint;¹⁹
4. Considering the wishes of the complainant with respect to supportive measures, explaining the process for filing a formal complaint;²⁰
5. Attending appropriate training;²¹
6. Remaining free from conflicts of interest or bias with respect to complainants or respondents, generally or individually;²²
7. Overseeing the prompt and equitable nature of any investigation or resolution, and;²³
8. Overseeing effective implementation of any remedies issued in connection with the grievance process.²⁴

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.²⁵ Title IX

¹⁹ 34 C.F.R. § 106.44(a).

²⁰ *Id.*

²¹ 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.”)

²² 34 C.F.R. 106.45(b)(1)(iii).

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

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

²⁵These effective practices have been articulated, among other places, in a [Dear Colleague Letter](#) from the U.S. Department of Education’s Office for Civil Rights on April 24, 2015. Although this Dear Colleague Letter has since been rescinded, the underlying concepts described in the letter are still instructive and aligned with the current regulations. The 2015 Dear Colleague Letter stated, “The Title IX coordinator’s role should be independent to avoid any potential conflicts of interest and the Title IX coordinator should report directly to the recipient’s senior leadership” The Letter further instructed that “the Title IX coordinator must have the authority necessary to [coordinate the recipient’s compliance with Title IX” and, in order to do so, “Title IX coordinators must have the full support of their institutions . . . [including by] making the role of the Title IX coordinator visible in the school community and ensuring that the Title IX coordinator is sufficiently knowledgeable about Title IX and the recipient’s policies and procedures.”

Coordinators and DHR Administrators should be positioned organizationally to operate with appropriate independence and autonomy, have sufficient supervision and oversight, and have direct or dotted reporting lines to senior leadership.

The Chancellor’s Office has published guidance regarding the role of campus Title IX Coordinators. Attachment B to the Systemwide Nondiscrimination Policy mandates that campus Title IX Coordinators “shall have authority across **all** campus-based divisions and programs (e.g., Human Resources, Academic Affairs, Student Affairs, Athletics, Housing, University Police, etc.) to monitor, supervise, oversee, and ensure implementation of [the Nondiscrimination Policy] in all areas” (emphasis in original). Attachment B further requires that all campus Title IX Coordinators and Deputy Title IX Coordinators be MPPs and “have the qualifications, authority and time to address all complaints throughout the campus involving Title IX issues.”²⁶ 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 university Title IX Coordinator was well positioned to effectively carry out their duties. As described above, this analysis consisted of assessing whether each Title IX Coordinator was appropriately positioned organizationally; sufficiently resourced; sufficiently trained; and free from conflicts of interest.

In evaluating San José State’s compliance with the above obligations, we note that the contact information for the current Interim Title IX and Gender Equity Officer/Title IX Coordinator — as well as contact information for the Title IX and Gender Equity Office more broadly — is displayed on university websites.²⁷

²⁶The [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.”

²⁷ See e.g., <https://www.sjsu.edu/titleix/about/index.php> and <https://sjsupartans.com/staff-directory/peter-lim/494> (both last visited May 12, 2023)

With respect to the positioning of the Title IX Coordinator within the university structure, we find that the Title IX Coordinator's current supervision line — reporting directly to the Vice President for Strategy and Institutional Affairs & Chief of Staff — provides the Title IX Coordinator with sufficient visibility, authority, and autonomy to effectively carry out their responsibilities. We did not identify any concerns with respect to conflicts of interest and note that the Title IX Coordinator is solely dedicated to the Title IX function and has no other university responsibilities.

Regarding resourcing, we find that the Title IX and Gender Equity Office is currently staffed such that it is able to fulfill its core functions and is able to respond promptly and equitably to the volume of reports it receives. If underlying factors change — for example, if the office receives a higher volume of reports or takes on additional responsibilities — the current staff structure may be insufficient to meet core requirements. We recognize that the Title IX and Gender Equity Office has augmented its staffing levels in the last year. We also recognize that, as recently as 2022, there has been turnover in the Title IX Coordinator position. Our observations with respect to staffing rely on the university's ability to identify and hire a full-time permanent Title IX Coordinator with sufficient training, experience, and skills to build upon the stability that has existed in the role and office over the past year.

In terms of training, we observed that the Interim Title IX Coordinator has a high level of substantive subject matter fluency with respect to Title IX issues. The current Title IX and Gender Equity Office staff is engaged in regular professional development. Materials used to train the Title IX and Gender Equity Office staff are posted on the Title IX and Gender Equity Office website, as required by law.

Recognizing that the requirements for DHR Administrators are less prescriptive but that the same factors regarding ability to carry out responsibilities apply, we evaluated the positioning, resourcing, visibility, and authority of San José State's DHR Administrator. In evaluating the university's communication of the DHR Administrator's identity and function, we note that the contact information for the DHR Administrator and general information about the DHR function can be found on university websites but is difficult to find without searching.²⁸ Unlike the Title IX and Gender Equity Office, which has a standalone website, OEO exists only as a sub-page of the University Personnel website.

²⁸ See e.g., <https://www.sjsu.edu/up/myinfo/equal-opportunity/employee-rights-and-complaints/index.php> (which is a sub-page of University Personnel and lists information about DHR complaints for employees and third parties, but not students) and <https://www.sjsu.edu/up/myinfo/equal-opportunity/student-discrimination-and->

As noted above, University Personnel is an omnibus employee resource for faculty and staff; it is not known or effectively communicated to be a student resource. Moreover, many employees we interviewed were unfamiliar with the term “DHR or “Office of Equal Opportunity.” Many employees did not know whether their responsible employee reporting obligations extended to reports of discrimination or harassment on the basis of race, religion, national origin, or other protected statuses. Some said they believed they were obligated to report those issues to “Title IX.” Most employees we interviewed knew the DHR Administrator by name, but they associated her with her other university roles such as Employee Relations, Whistleblower protection, or as the former Interim Title IX Coordinator — a role she held twice, from April to June 2016 and from June to September 2018.

With respect to the placement of the DHR Administrator, we find that her position and other roles within University Personnel contribute to a perception of conflicts of interest. For example, some employees shared the perspective that the DHR Administrator may be more likely to credit the accounts of supervisors over supervisees due to her role in Employee Relations. Other employees expressed reticence to report concerns to a person in University Personnel because of UP’s intersections across other employment issues and their access to records unrelated to the matter being reported.

In terms of training, we observed that the DHR Administrator has a high level of substantive subject matter fluency with respect to DHR issues.

Regarding resourcing, we find that the DHR Administrator has access to investigative and adjudicative resources at a level that is sufficient to meet the needs based on current reporting; however, given the concerns about barriers to reporting, we expect that the volume of reports would go up if the DHR function were more widely known and if it were positioned outside of UP so that it was seen as a neutral university-wide resource for all constituents. If OEO received a higher volume of reports, current staffing levels would almost certainly be insufficient to meet core requirements. As explained more fully below, for these and other reasons, we recommend realignment of resources to either join the Title IX and DHR functions or to more strongly align the roles, resources, procedures and practices of both offices and to elevate both as university-wide resources for all members of the San José State community.

[harassment-complaints/index.php](https://www.sjsu.edu/offices/dhr/complaints/index.php) (which is a sub-page of University Personnel and lists information about DHR complaints for students) (both last visited May 13, 2023).

B. Notice of Nondiscrimination

The Title IX regulations require that institutions publish a nondiscrimination statement.²⁹ 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;³⁰
2. The institution does not discriminate with respect to admissions or employment, and;
3. Inquiries about the policy may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights in the U.S. Department of Education’s Office for Civil Rights, or both.

Along with these notification requirements, institutions must display contact information for the Title IX Coordinator on their respective websites, and in each handbook or catalog that it makes available to all stakeholders listed above.³¹

San José State has a [Notice of Nondiscrimination](#), which, consistent with the Title IX regulations, states that the university does not discriminate on the basis of sex or gender, including gender identity, gender expression, sexual orientation, or sex stereotype in its education programs and activities, including employment. The Notice states that this prohibition on discrimination extends to sexual harassment, sexual misconduct, sexual exploitation, dating and domestic violence, and stalking. The Notice provides the required contact information for the university Title IX Coordinator and OCR, to individuals seeking to report sex discrimination.

San José State’s [Notice of Nondiscrimination](#) is accessible on the university websites for the Title IX and Gender Equity Office, as noted above, and the main Title IX and Gender Equity Office website is linked in the common footer on most San José State websites, with the link labeled “Title IX.” There are some San José State webpages that contain outdated Notices of Nondiscrimination, including outdated information

²⁹34 C.F.R. § 106.8(b).

³⁰ *Id.*

³¹ 34 C.F.R. § 106.8(b)(2).

for the Title IX and Gender Equity Officer.³² While there is a consistent link to the Title IX and Gender Equity Office website, there is currently no direct link to the Notice of Nondiscrimination on university webpages.

While the current Notice of Nondiscrimination states, “The Office for Equal Opportunity is responsible for oversight of compliance with non-discrimination, harassment and retaliation based on age, disability (physical and mental), genetic information, marital status, medical condition, nationality, race or ethnicity (including color or ancestry, religion (or religious creed), and/or veteran status or military status, and other characteristics that make our community unique,” there is no broader language in the Notice addressing the university’s nondiscrimination 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”³³ 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.³⁴

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

³² See, e.g., <https://catalog.sjsu.edu/content.php?catoid=13&navoid=4894> (last visited May 13, 2023).

³³ 34 C.F.R. § 106.8(c).

³⁴ *Id.*

grievance procedures and process for resolving reports of sex discrimination, as well as other protected status prohibited conduct. Pursuant to the Nondiscrimination Policy, there are three separate tracks for formal resolution of complaints. Specifically, “Track One” applies to reports of sexual harassment that fall within the federal mandated hearing process required under the 2020 Title IX regulations; “Track Two” applies to reports of sexual misconduct, dating violence, or domestic violence against a student where credibility is an issue, that fall within the mandated hearing process articulated in California case law; and “Track Three” applies to all other reports that allege a violation of the Nondiscrimination Policy.

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

The CSU’s prohibition against certain consensual relationships is embedded within the Nondiscrimination Policy.³⁵ 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

³⁵ 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.”

this prohibition. We recommend that training on this section of the policy be incorporated into required training and education. On many campuses, this was an issue of significant concern for faculty and staff.

VI. Campus Coordination

San José State effectively leverages the use of a single case management system across key units, including Title IX, DHR, University Personnel, Student Conduct and Ethical Development (SCED), and Residential Life. San José State's Title IX and DHR functions are supported by a multidisciplinary team (MDT) which includes partners from Title IX and Gender Equity, OEO, UPD, SCED, and University Counsel. These approaches — the unified case management system and MDT — have facilitated coordination and enabled more informed decision-making for Title IX and DHR cases. These partner offices, all of which have responsibilities related to conduct or discipline, are described more fully below.

A. University Police Department

The [San José State University Police Department \(UPD\)](#) is located on the Main campus in the South Garage at the corner of South Seventh and San Salvador Streets. UPD provides police services 24 hours a day. UPD is comprised of the Chief's Office and two bureaus: Administration and Operations. The Administration Bureau is comprised of Police Records, Property and Evidence, the Police Cadet Program, Training and Recruiting, and the Fiscal Services Unit. The Operations Bureau is comprised of Police Patrol, Emergency Preparedness, Investigations and Crime Prevention, and Library and Housing Security. UPD also operates an all-day, 365-day per year Police Department Communications Center, which dispatches UPD personnel to the campus and is contracted to provide dispatch services to surrounding institutions.

According to the UPD website, UPD responds to approximately 60,000 calls for service, arrests between 800 and 900 individuals, and writes approximately 2500 police reports each year.

The University Police Department consists of approximately 35 sworn police officers, approximately 50 non-sworn civilians in support, dispatch, and parking roles, and approximately 20 student assistants. UPD has historically struggled to maintain full staffing and has had more than 10 open positions at a time. The Chief of Police, who began his role at San José State in January 2022, reports to the Vice President for Administration and Finance. UPD has arrest powers and concurrent jurisdiction with the San José Police Department, and the two departments have entered into a [Memorandum of Understanding \(MOU\)](#).

UPD investigates reports of sexual assault, dating or domestic violence, and other sex crimes that are alleged to have occurred in the jurisdictional areas defined in its MOU with the San José Police Department. UPD officers are trained to provide to complainants information regarding medical care and the Campus Survivor Advocate. UPD shares information with the Title IX and Gender Equity Office when given permission to do so by the complainant. Pursuant to California Penal Code 293, UPD will honor a complainant's request not to have their name shared with the Title IX Coordinator but will share the report and the respondent's information. UPD officers are trained to explain to complainants the purpose and role of the Title IX and Gender Equity Office.

B. Student Conduct and Ethical Development

San José State's [Office of Student Conduct and Ethical Development \(SCED\)](#) is part of the Division of Student Affairs. SCED conducts outreach and interventions and oversees the student conduct process, including addressing potential violations of the Student Conduct Code, the Academic Integrity Policy, and the Student Organization Code of Conduct. Since the start of the pandemic, SCED has also been responsible for tracking testing and vaccination. SCED addresses approximately 6,800 reports per year.

In Title IX cases, the hearing officer (Track One or Track Two) or the investigator (Track Three) is responsible for determining whether the respondent has violated the Nondiscrimination Policy. If there is a finding of responsibility, the Director of SCED, in conjunction with the Title IX Coordinator and/or DHR Administrator, is responsible for recommending a sanction to the hearing officer or investigator. In Track One and Track Two cases, after observing the hearing, the Director of SCED and the Title IX Coordinator confer on the sanction and provide a recommendation to the hearing officer.

C. Residential Life

The [Residential Life](#) staff at San José State consists of approximately 54 full-time employees (not including 250 student workers). The full-time staff include an Executive Director; Director; six Assistant Directors; eight Residential Life Coordinators; five financial specialists; four housing security officers; fifteen facilities staff; specialists in conduct, community relations, and academics; and administrative support personnel. There are also six faculty in residence.

Residential Life staff are trained to report all known information about potential sexual assault, sexual harassment, dating violence, domestic violence, stalking, and protected status discrimination or

harassment via Maxient in real time. If a student Resident Advisor (RA) receives a report of potential Title IX or DHR conduct, they are trained to coordinate with the professional staff on call. Reports are routed to the Title IX and Gender Equity Office and/or OEO via Maxient. Reports of conduct that do not implicate the Nondiscrimination Policy but represent other potential policy violations are generally routed to SCED and/or addressed within Residential Life if the incident occurred in campus housing.

D. Provost / Academic Affairs

San José State's [Provost and Senior Vice President for Academic Affairs](#) has primary responsibility for ensuring academic excellence in the university's disciplinary colleges (Health and Human Sciences, Engineering, Professional and Global Education, Business, Humanities and the Arts, Sciences, Social Sciences, Education, and the University Library) as well as the College of Graduate Studies, Undergraduate Advising and Success, Faculty Success, Academic Innovation and Institutional Effectiveness, Institutional Research and Strategic Analytics, Academic Business and Strategic Operations, and special assignments.

E. University Personnel

Many institutions have separate Human Resources functions for faculty (often called "Faculty Affairs") and non-faculty employees ("Human Resources"); San José State does not. As noted above, at San José State, [University Personnel \(UP\)](#) is the omnibus office for all HR-related functions for all employees, including staff and faculty. UP oversees Employee Recruitment and Retention, Benefits, Compensation and Classification, Payroll, Employment Authorization and Immigration Services, Employee Support Services, Onboarding, Accommodations for Employees, Leave, Workers' Compensation, Employee Relations, Academic Employee Relations, Labor Relations, Equal Opportunity (including DHR), Retirement, Organizational Development and Enrichment, Technology and Training for Employees, HR Information Systems, and Faculty Services. UP also addresses Whistleblower and Whistleblower Retaliation complaints.

As described above, the DHR Administrator, who reports up through University Personnel, is responsible for addressing all reports of discrimination, harassment, and retaliation on the basis of protected statuses other than sex, gender, sexual orientation, gender identity, and sex stereotype for all complainants and respondents including students, faculty, and staff. UP also receives all employee-related complaints and grievances including reports of unprofessional conduct and non-protected-class misconduct.

In accordance with the current Collective Bargaining Agreement (CBA) between the California Faculty Association (CFA) and the CSU, when the Title IX and Gender Equity Office or the DHR Administrator is investigating conduct that could be discrimination or harassment on the basis of a protected status, all CBA-related grievance procedures are held in abeyance until the Title IX or DHR investigation is fully completed.³⁶

F. Clery Act Responsibilities

The San José State Director of Clery Compliance and Strategic Campus Safety Initiatives is part of the Administration and Finance Division. The San José State [Clery Compliance website](#) contains information about identification of campus security authorities (CSAs), Clery geography, Clery crimes, and links to the Daily Crime Log (maintained by UPD), the most recent [Annual Security Report](#) and Annual Fire Safety Report (required under Clery and the Higher Education Act Fire Safety Regulations, respectively), and the Annual Campus Safety Plan and Systemwide Hate Incidents Report (as required by the California Education Code). The Director of Clery Compliance works closely with UPD. UPD is the primary entity responsible for assessing whether to issue timely warnings and emergency notifications to the university.

VII. Campus Resources for Students and Employees

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

A. Campus Survivor Advocate³⁷

San José State has one full-time dedicated university employee designated as a confidential Survivor Advocate. She is available to serve students, faculty, and staff. The current Campus Survivor Advocate has been in the support and advocacy field for six years and has been in her role at San José State since August 2021. San José State also contracts with the local YWCA for after-hours survivor advocacy and to offer advocacy services to individuals who prefer to work with someone not affiliated with the university. From

³⁶ Collective Bargaining Agreement Between CFA and the Board of Trustees of CSU; Unit 3: Faculty; Article 10.7.

³⁷ The Campus Survivor Advocate role is defined in Attachment C of the Nondiscrimination Policy and discussed in the Systemwide Report.

July 1, 2022, to June 30, 2023, the YWCA provided advocacy services to 24 San José State-affiliated individuals.

The [Campus Survivor Advocate's website](#) contains the following description of services offered:

The Campus Survivor Advocate provides confidential individual and group sessions for people impacted by sexual violence, intimate partner violence, stalking & harassment.

Advocacy services include:

- Provides emergency and support services to ensure the well-being and safety of survivors
- Crisis intervention and advocacy for students, faculty and staff
- Information regarding on and off campus reporting options, including Title IX information
- Accompanies survivors, at their request and with their permission, and be with them as a support person throughout the stages of an investigation, counseling, medical appointment, or legal appointments
- Serve as a liaison for issues within the Title IX Office, University Police Department, University Housing Services, Student Conduct & Ethical Development and other key campus departments

The [Campus Advisors page](#) of the Title IX and Gender Equity Office website provides the following information about the Campus Survivor Advocate:

San José State's Campus Survivor Advocate is a confidential resource - you can discuss what happened with her without notifying the Title IX and Gender Equity Office or law enforcement. The Campus Survivor Advocate is available to review your rights and options as a survivor of sexual assault, sexual harassment, dating/domestic violence, or stalking. Whether you want information or assistance with reporting the incident, or if you need access to academic intervention or other resources, you can meet with the advocate to review all of your rights and options available on and off campus.

The Campus Survivor Advocate served approximately 48 individuals between August 2021 and August 2022. From August 2022 to May 4, 2023, the Campus Survivor Advocate experienced a significant increase in demand and provided services to 81 individuals. There was no historical data about numbers of individuals served due to deficiencies in recordkeeping and because there had been an 18-month vacancy in the role prior to the current Campus Survivor Advocate's arrival. The current Campus Survivor Advocate anticipated an increase in demand due to greater outreach efforts and strengthened partnerships. The

Campus Survivor Advocate reported receiving the greatest number of referrals from three sources: the Title IX and Gender Equity Office, faculty who have attended the Campus Survivor Advocate's trainings, and student organizations. The Campus Survivor Advocate was working to strengthen partnerships with the University Police Department and to reestablish the partnership with Residential Life after the departure of a case manager who had been a significant source of referrals.

The Campus Survivor Advocate's office is in the Student Wellness Center within the Counseling and Psychological Services (CAPS) suite. The Campus Survivor Advocate reports to the Senior Director of Student Well-Being, Counseling, and Psychological Services.

The Campus Survivor Advocate's website provides information about how to schedule an appointment via email or phone.

B. Respondent Consultant

San José State has designated an employee in Student Affairs to serve as a Respondent Consultant. The current Respondent Consultant has other significant university-wide responsibilities including serving as chair of the Behavioral Intervention Team (BIT) and as a Senior Case Manager in Student Affairs.

The [Campus Advisors page](#) of the Title IX and Gender Equity Office website provides the following information about the Respondent Consultant:

The Respondent Consultant provides guidance and information about procedures for respondents involved in the Title IX process. The Respondent Consultant is also available to help with accessing available supportive measures. The Respondent Consultant is not confidential and, as an employee, still has a mandatory duty to report any information or reports of misconduct disclosed by a respondent.

The Respondent Consultant's office is in the Student Wellness Center, in a different suite from the Campus Survivor Advocate. The Respondent Consultant reports to the Associate Vice President for Health, Wellness and Student Services. His services are available to students, faculty, and staff.

C. Counseling and Psychological Services

San José State's Counseling and Psychological Services (CAPS) offers free counseling for all San José State students. CAPS offers services related to stress, depression, anxiety, relationship issues, and other

concerns. The [CAPS website](#) indicates that they provide mostly telehealth services, but with some in-person services available.

CAPS offers crisis intervention, personal counseling, couples counseling, identity- and issue-based groups, workshops, and clinical case management for students connecting to resources in the community. Students are able to access eight or more sessions per year, depending upon clinical need. Wait times for initial appointments varies throughout the year but can be up to two or three weeks, with crisis and emergency appointments available same-day.

CAPS is located in the Student Wellness Center. The “Staff” webpage on the CAPS website lists 27 staff members including a Mental Health Education Coordinator, 12 personal counselors, 6 personal counseling trainees, and four CAPS administrators, including a Senior Director of Student Well-Being and CAPS, an Associate Director, an Office Coordinator, and an Administrative Analyst. The Senior Director of Well-Being and CAPS has been in CAPS at San José State since 2001.

In addition to services provided by CAPS, the website directs students to a telephone suicide and crisis lifeline which is available 24/7 and is free and confidential. The lifeline is available by dialing 988. The CAPS website also contains information about several other programs: the “Let’s Talk, Spartans!” program, which provides counseling services to individuals and groups in common areas across the university; “YOU@San José State,” which is an app-based resource with tips and tools for mental health, physical health, and managing stress and anxiety; and “ThrivingCampus,” which is an online directory listing available mental health providers in the local community. The CAPS website also refers students to an internal 24-hour crisis line.

D. Student Health Center

The San José State Student Health Center is an accredited medical facility located in the Student Wellness Center. The Health Center offers primary medical care, illness and injury treatment, physical examinations, preventive medicine, sexual and reproductive healthcare, immunizations, physical therapy, nutrition, lab testing, pharmacy services, over-the-counter medicines, and radiology.

The Wellness and Health Promotion Coordinator at San José State, housed within the Student Wellness Center, offers peer education and programming on alcohol, marijuana, tobacco, healthy sexuality, stress-reduction and self-care, sexual violence prevention, and other topics. Wellness and Health Promotion has

approximately 25 Peer Health Educators who offer programming to support the well-being of San José State students.

E. Student Ombudsperson

San José State has a Student Ombudsperson who serves as a neutral confidential resource for students. The [Student Ombudsperson's website](#) contains the following description of the role:

What We Do

Advocate for procedural fairness who supports the integrity of the campus and procedures and ensures the equity of their application.

Neutral- The ombudsperson is an advocate of procedural fairness who maintains impartiality.

Confidential- Communications with the ombudsperson will not be shared without permission unless there is an imminent risk of serious harm.

Informal- The Ombudsperson does not conduct investigations or replace formal process.

The Ombudsperson's website contains a [detailed graphic](#) showing the Ombudsperson's reporting and resolution process available to students. The Student Ombudsperson holds all communications with those seeking assistance as confidential and does not disclose a person's identity or confidential communications unless given permission to do so. The only exceptions are where there is an imminent risk of serious harm to self or others or if the conduct concerns sexual misconduct.

F. Additional Resources for Students

San José State Cares works with students in financial crises and provides direct support and referrals related to basic needs including food, housing, medical assistance, clothing assistance, needs related to an emergency or disaster, and resources and support for parenting students. San José State Cares administers the Spartan Food Pantry, a walk-in full-service food assistance program for eligible students, and assists students in enrolling in CalFresh, which provides monthly cash supplements to individuals facing food insecurity. San José State Cares assists students who are unexpectedly homeless or who lack

stable, regular or adequate housing to find housing or financial resources to pay for existing options. A complete list of services through San José State Cares is available on their [website](#).

San José State's Behavioral Intervention Team (BIT) is a multidisciplinary team that works proactively to identify, assess, and offer coordinated institutional responses to San José State community members whose behavior poses a risk to themselves, others, or the university community. The team has representation from Student Affairs, Student Health, University Police, University Personnel, CAPS, Student Conduct and Ethical Development, Residential Life, and the Provost's Office. More information about the BIT can be found on their [website](#).

San José State students have access to resources through CAPS, the Student Health Center, the Campus Survivor Advocate, the Respondent Consultant, University Police, the Student Ombudsperson, the Title IX and Gender Equity Office, and through various identity-based affinity groups. Students also have access to off-campus resources including those listed on the Gender Equity Office [website](#).

The San José State Student Union houses the Chicanx/Latinx Student Success Center, the PRIDE Center, the Gender Equity Center, the Black Leadership and Opportunity Center, the Veterans Resource Center, the MOSAIC Cross-Cultural Center, and other student-focused spaces.

G. Additional Resources for Employees

San José State faculty and staff have access to resources through the Campus Survivor Advocate, the Respondent Consultant, University Police, and the Title IX and Gender Equity Office. Many collective bargaining units also offer resources, support, and accompaniment to members navigating Title IX or DHR processes.

Additionally, employees have access to an Employee Assistance Program (EAP) through [LifeMatters by Empathia](#). The EAP provides free and confidential services to employees, including telephone and face-to-face counseling for stress, depression, personal problems, balancing work and personal needs, family and relationship issues, alcohol or drug dependency, workplace conflicts, and other concerns. LifeMatters by Empathia also offers financial consultation and consultation with an attorney regarding family law, estate planning, and other services.

In addition to resources provided by San José State, the university's [Title IX and Gender Equity Office website contains](#) information about off-campus resources available to all members of the San José State community, including employees.

VIII. Prevention, Education, Professional Development, Training and Awareness³⁸

As we noted above, we recognize that San José State has a robust program for educating its community on the Title IX and Gender Equity Office, Title IX reporting options, resolution pathways, and available resources and supports. The Title IX and Gender Equity Office tracks all trainings delivered across the university, including to faculty, staff, students, and groups. For purposes of the discussion about prevention and education, however, we view education about resources and responses as a separate concept from primary prevention. Unlike education about options and resources, primary prevention focuses on root causes, risk-identification, and the prevention of conduct before it occurs.

Prevention programming at San José State is delivered in two ways: online modules through the CSU system, and events and awareness campaigns by an *ad hoc* group of university officials who choose to work together on prevention.

A. Students

Under the Nondiscrimination Policy, all San José State students are required to take online Title IX online training including *Sexual Violence Prevention for New Undergraduate Students*, *Sexual Violence Prevention for New Graduate Students*, and *Bystander Intervention* for returning undergraduate and graduate students every academic year. In addition, in 2022-2023, San José State provided additional student programming, including the following:

- **Undergraduate Student Orientation** (8 sessions): in-person presentation covering topics including an overview of Title IX; the university's Title IX Policy; prohibited conduct under the Title IX Policy; the university's definition of Affirmative Consent; jurisdiction and scope of the Nondiscrimination Policy; employee reporting responsibilities; how to get help at the university; reporting options; campus confidential resources; and the Title IX Office and Gender Equity Office and its personnel;
- **Transfer Student Orientation** (7 sessions): in-person presentation covering topics including an overview of Title IX; the university's Title IX Policy; prohibited conduct under the Title IX Policy; the university's definition of Affirmative Consent; jurisdiction and scope of the Nondiscrimination

³⁸ 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.

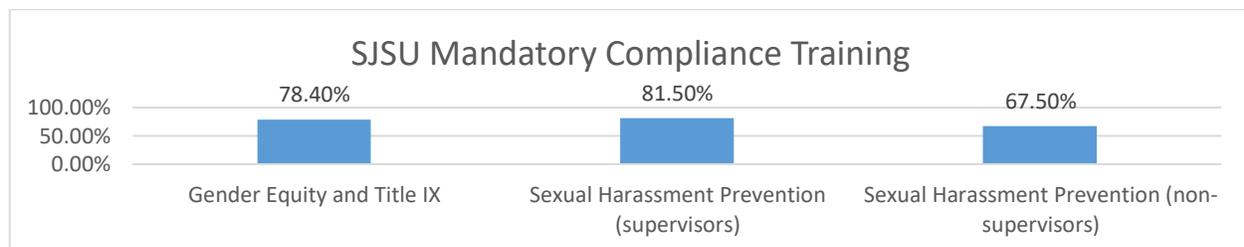
- Policy; employee reporting responsibilities; how to get help at the university; reporting options; campus confidential resources; and the Title IX Office and Gender Equity Office and its personnel;
- **Graduate Student Orientation:** online course covering topics including an overview of Title IX; the university's Title IX Policy; prohibited conduct under the Title IX Policy; the university's definition of Affirmative Consent; jurisdiction and scope of the Nondiscrimination Policy; employee reporting responsibilities; how to get help at the university; reporting options; campus confidential resources; and the Title IX Office and Gender Equity Office and its personnel;
 - **Student-Athlete Workshop on Wellbeing Attendant Policy:** 90-minute in-person presentation for all student-athletes, covering topics including an overview of Title IX; the university's Title IX Policy and Student Conduct Code; jurisdiction and scope; definitions of prohibited conduct under the Title IX Policy; the university's definition of Affirmative Consent; specific examples of Sexual Harassment; bystander intervention; employee reporting responsibilities; confidential and non-confidential resources; the formal resolution process explained; supportive measures; the Title IX and Gender Equity Office and its personnel; and an explanation of the Wellbeing Attendant (Chaperone) Policy, including informed consent, protocols for sports medicine encounters, how to request a Wellbeing Attendant, how to report concerns arising during a sports medicine encounter to the Title IX and Gender Equity office, and how to serve as a Wellbeing Attendant.
 - **Individualized Training for Each Athletics Team:** individual in-person training per team, covering topics including an overview of Title IX; the university's Title IX Policy; prohibited conduct under the Title IX Policy; relevant examples of conduct aligned to the student-athlete experience; the university's definition of Affirmative Consent; jurisdiction and scope of the Nondiscrimination Policy; employee reporting responsibilities; how to get help at the university; reporting options; campus confidential resources; the importance of taking personal responsibility in a potentially harmful situation; bystander intervention strategies.
 - Tailored presentations to student organizations and groups, including:
 - Associated Students, Inc. leadership
 - Current and potential new members of fraternities and sororities
 - Reserve Officers' Training Corps (ROTC) program students
 - International Students
 - International Graduate Students
 - J-1 International Students (for students studying on a J-1 visa)
 - TRiO/ASPIRE (for students who are low-income, first-generation college students, and individuals with disabilities)
 - The ACCESS Student Program
 - Study Abroad and Away program students
 - New Black Spartan Institute
 - The MOSAIC Cross-Cultural Center
 - The PRIDE Center
 - The Gender Equity Center
 - The Solidarity Network Student Leaders

B. Employees

Consistent with California state law, CSU policy requires all CSU employees to complete the online CSU *Sexual Misconduct Prevention Program Training*, also known as *Gender Equity and Title IX*, on an annual

basis (for at least 60 minutes). In addition to this annual requirement for all CSU employees, supervisors and non-supervisors are required to participate in a CSU's *Discrimination Harassment Prevention Program* every two years (for at least 120 minutes).

The systemwide Learning and Development Office in the Chancellor's Office hosts these online modules, which are provided by an external vendor, on its systemwide employee learning management system. The Learning and Development Office tracks employee completion of these required programs. The below chart, provided by the Chancellor's Office, shows the completion percentage for each university for the 2022 calendar year:³⁹



In addition, in 2022-2023, San José State provided additional employee programming, including the following:

- **Athletics Staff Training on Wellbeing Attendant Policy:** 90-minute in-person presentation for all athletics employees, covering topics including an overview of Title IX; the university's Title IX Policy and Student Conduct Code; jurisdiction and scope; definitions of prohibited conduct under the Title IX Policy; the university's definition of Affirmative Consent; specific examples of Sexual Harassment; bystander intervention; employee reporting responsibilities; confidential and non-confidential resources; the formal resolution process explained; supportive measures; the Title IX and Gender Equity Office and its personnel; and an explanation of the Wellbeing Attendant (Chaperone) Policy, including informed consent, protocols for sports medicine encounters, how to request a Wellbeing Attendant, how to report concerns arising during a sports medicine encounter to the Title IX and Gender Equity office, and how to serve as a Wellbeing Attendant.
- **University Police Department (UPD) Training:** in-person training for all UPD Officers whose duties include potential encounters with student-victims of Sexual Harassment and/or investigations of allegations Sexual Harassment (including Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Exploitation), covering topics including an overview of Title IX; the University's Title IX Policy; prohibited conduct under the Title IX Policy; the university's definition of Affirmative Consent; jurisdiction and scope; employee reporting responsibilities; how to get help at the university; reporting options; campus confidential resources; being intentional with language; considering the impact of trauma in investigations; how to identify, collect, and preserve digital evidence; and incapacitation analysis.

³⁹ These percentages have been validated by each campus. Please note employees designated by their campus as "on leave" were removed from these final percentages.

- Tailored presentations to specific groups, including:
 - President’s Cabinet
 - Vice Presidents and Associate Vice Presidents
 - New Orientation Leaders
 - Resident Advisors
 - International House Resident Advisors
 - Teaching Assistants (TAs) and Graduate Assistants (GAs)
 - University Housing Services Professional Staff
 - Spartan Recreation Staff
 - Tutors, Mentors, Supplemental Instruction Leaders, Peer Mentors, and Learning Assistants

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

C. Coordination

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.⁴⁰ Even if responsibilities are shared with a Confidential Advocate, the Title IX Coordinator “remains primarily responsible for all campus-based prevention and awareness activities.”⁴¹ The Nondiscrimination Policy further provides: Confidential Advocates may serve on campus-based task force committees/teams to provide general advice and consulting, participate in prevention and awareness activities and programs, and play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing campus-wide awareness and outreach activities, possibly including prevention activities.⁴²

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

As described above, beyond the online modules, prevention work is a collaborative effort at San José State. Because there is no single university office or person responsible for development and delivery of

⁴⁰ See Attachment B: Campus Title IX Coordinators Role and Responsibilities.

⁴¹ See Attachment C: Confidential Sexual Assault Victim's Advocates.

⁴² *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.”

prevention programming, the effort is distributed across a group of university partners mostly led by the Title IX and Gender Equity Office and the Wellness and Health Promotion Coordinator, the Campus Survivor Advocate, the PRIDE Center and the Gender Equity Center, and Student Affairs.

This group of partners was described as having “come together organically” in 2017 to meet the need for prevention services. In interviews as part of this assessment, the members of the informal prevention group consistently described the need for a more formal structure for prevention, including a formally established Prevention and Education Oversight Committee and a dedicated prevention coordinator with sufficient resources and support to develop and deliver tailored programming across constituencies. We make that recommendation below.

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.

Currently, the Title IX and Gender Equity Office and OEO review all reports of conduct that may violate the Nondiscrimination Policy to assess whether or not it should be addressed through one of their offices or if it should be referred to a university partner. If the conduct is not alleged to be based on protected status — for example, if it is a complaint of unprofessionalism, inappropriate supervisory practices, or mistreatment directed at others regardless of identity — then the conduct may be referred to the supervisory/disciplinary unit for the respondent based on their status as student, faculty, or staff. Reports of *other conduct of concern* involving students are referred to SCED or, if they occur in the Residence Hall, to Residential Life. Reports of *other conduct of concern* involving faculty or staff are referred to University Personnel, the individual’s supervisor, and/or the dean or department chair for faculty.

Other than the definitions in the Nondiscrimination Policy, there are currently no written criteria to guide the Title IX and Gender Equity Officer or the DHR Administrator in evaluating whether conduct constitutes

discrimination or harassment on the basis of protected status. This gap is explored more thoroughly in the systemwide report. If the conduct is because of a person's protected status but, upon further evaluation through an investigation, is found not to be sufficiently severe, pervasive, and objectively offensive such that it constituted Sexual Harassment (the Title IX regulatory definition used in Track One cases) or found not to be sufficiently severe or pervasive such that it constituted Harassment; and/or not sufficiently severe, persistent, or pervasive such that it constituted Sexual Harassment (the broader definitions used in Track Three cases), then there is no consistent established process at San José State for an institutional response. At times, those cases are referred to the supervisory/disciplinary unit for the respondent based on their status as student, faculty, or staff. Other times, they may be referred to the Office of Diversity, Equity and Inclusion (ODEI).⁴³

In stakeholder interviews, many individuals including faculty, staff, and students, highlighted the need for university-wide tools and processes to address harmful conduct that did not constitute a Nondiscrimination Policy violation. Those individuals highlighted concerns about and experiences of abuse of power, micromanagement, unprofessionalism, antagonistic behavior, peer-to-peer bullying, and social exclusion/isolation.

As discussed more fully below, we recommend implementing a structure to evaluate reports, identify appropriate resolution pathways, and provide impacted parties and university administrators with options through use of a suite of tools and services designed to address *other conduct of concern*.

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.

⁴³ <https://www.sjsu.edu/diversity/office/index.php> (last visited May 14, 2023). ODEI recently experienced a change in leadership. The Chief Diversity Officer who was in place when we conducted our campus visit is now at a different CSU institution in a similar role. There is an active search for a new CDO at San Jose State.

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

A. Infrastructure and Resources

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

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

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 and/or ensure adequacy of intake, outreach, and case management protocols for supportive measures and resources
 - 1.2.1. Update 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, as needed
 - 1.2.2. Continue to 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. Ensure the consistent use of 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. For all cases, whether related to Title IX or DHR, 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 ensure the current model has identified the right university partners to serve on the MDT and to update standards for meeting goals and sharing real time information
 - 1.5.2. The MDT should meet regularly and at a minimum, weekly, to review all new reports
 - 1.5.3. The MDT should ensure that all known and available information about the parties and the reported incident is shared with TIX/DHR to inform TIX/DHR's initial assessment and any steps it determines to take in response (including information maintained outside of Title IX/DHR's recordkeeping systems and information that may only be known to another unit or individual)
 - 1.5.4. The Title IX Coordinator/DHR Administrator should follow a protocol for securely sharing parties' university ID numbers or names and basic information about the reported incident in advance of MDT meetings to enable all participants to query their records systems and bring forward any relevant information
 - 1.5.5. The Title IX Coordinator/DHR Administrator should ensure that the MDT is trained to treat information confidentially, with sensitivity, and consistent with state and federal privacy laws
 - 1.5.6. The MDT should engage in consultation to inform decisions, including those about emergency removal, administrative leave, the reasonable availability of supportive measures, and questions about the scope of the university's education program or activity
 - 1.5.7. The MDT meetings should serve as natural opportunities for documenting the factors considered in reaching key decisions and documenting what information was known, when it was known, by whom it was known, and what impact it had on the Title IX Coordinator/DHR Administrator's analysis
 - 1.5.8. The MDT should facilitate the development of shared fluency and knowledge among key university partners related to the legal and regulatory requirements, policy frameworks, and considerations related to care and informed and equitable processes
- 1.6. Develop tools for consistent, informed, effective documentation and case management
 - 1.6.1. For quality control, develop a case opening and closing checklist to ensure that all relevant documents, correspondence, and information are captured and preserved electronically
 - 1.6.2. To the extent feasible, seek to maintain data in a usable and searchable electronic format for efficient decision making, analysis and review
 - 1.6.3. Migrate all historical DHR reports and Title IX reports into the enterprise-level case management system, if not already included

- 1.6.4. Develop periodic reviews for quality assurance
- 1.7. Oversee investigations for quality and consistency of prompt and equitable processes
 - 1.7.1. Establish a protocol to ensure the timeliness of investigations, with routine quality control mechanisms throughout the 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 as needed
4. Review the current post-Title IX/DHR disciplinary processes for faculty and staff to ensure promptness, equity, and informed communication
 - 4.1. Ensure the Title IX Coordinator/DHR Administrator remains engaged in any disciplinary processes, including sanctions and appeals, until final
 - 4.2. Ensure that decisions about negotiated settlements are supported by a careful and coordinated review by all relevant campus and system level administrators
5. Develop and implement a process to routinely collect post-resolution feedback from the parties and all impacted individuals

C. Communications

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

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

2. Develop an intentional marketing campaign to raise awareness about the role of the Title IX/DHR program, available resources, and resolution options
 - 2.1. Prioritize the messages of care, supportive measures, and resources
 - 2.2. Differentiate and educate about the difference between confidential resources and reporting options
 - 2.3. Partner with campus communications professionals to create and promote effective marketing materials, including through the use of professional branding that can be used across platforms (print, web, social media, imprinted on giveaway products)
3. Improve the Title IX/DHR website and other external-facing communications
 - 3.1. Review and revise web content, across all relevant webpages, for clarity, accuracy, and accessibility
 - 3.2. Ensure that web content includes: photographs and contact information for Title IX/DHR staff, Notice of Nondiscrimination, 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. Gather, evaluate, and update all existing informational materials, web resources, posters/flyers, social media information, and other public-facing communications about the Title IX/DHR program to ensure that those materials:
 - 3.3.1. Reflect the current staffing and structure of the office, the current CSU Nondiscrimination Policy and resolution processes, and current information about on- and off-campus resources including confidential resources
 - 3.3.2. Are written in clear language, accessible (from both a disability perspective and a reading comprehension perspective), and consider strategic placement of newly developed print materials in areas frequented by students, staff, and faculty
 - 3.4. Use standardized email addresses and/or materials that are able to be updated quickly (e.g., use of QR codes that point to dynamic webpages that can be updated; using, for example, "TitleIX@[name of university].edu," so that print materials do not become outdated if there is a personnel change, etc.)
4. Develop an expanded annual report with meaningful information/data
5. Develop standing committee of representative student, faculty and staff ambassadors to support and facilitate institutional efforts to more effectively communicate with campus constituents
6. Identify and prioritize opportunities for in-person engagement with Title IX/DHR staff (e.g., pop-up events, tabling at an information fair, open houses in various central locations, routine scheduled short presentations to key audiences, and/or sponsored or co-sponsored events)

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

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

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

faculty (deans, department chairs, leads, lecturers); staff (managers, supervisors); and campus partners who assist in the implementation of Title IX/DHR

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

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

E. Responding to Other Conduct of Concern

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

1. In conjunction with the Chancellor's Office and CSU's Office of General Counsel, develop a written policy, document, or statement by senior leadership to establish expectations, guidelines, and/or definitions of conduct
 - 1.1. The written framework should address unprofessional conduct, abusive conduct, microaggressions, acts of intolerance, and other disruptive behavior in the living, learning and working environment
 - 1.2. The written framework must also address intersections with free speech and academic freedom, including the explicit recognition that the CSU cannot discipline for protected speech
2. Reinforce CSU values and expectations about respect, tolerance, and professionalism through programming and opportunities for in-person engagement
3. Strengthen and expand available competencies regarding conflict resolution, navigating interpersonal conflict, restorative justice, and other forms of remedial responses
 - 3.1. Strengthen traditional employee relations functions within human resources to assist in responding to concerns involving faculty and staff
 - 3.2. Strengthen competencies of managers, supervisors, deans and department chairs by providing expanded training and professional development to meet the needs of assigned roles
 - 3.3. 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 Population⁴⁴

The below chart reflects key metrics and demographic information for San José State University.

| San José State University | | | |
|---|---|---|------|
| Location Information | | | |
| Location: San José, CA (pop. 983,489) ⁴⁵ | County: Santa Clara County (pop. 1,870,945) ⁴⁶ | Locale Classification: Large City ⁴⁷ | |
| University Information | | | |
| Presidents (during the course of the assessment): Mary A. Papazian, Ph.D. (Jul. 2016 – Dec. 2021) Stephen Perez, Ph.D. (Dec. 2021 – Jan. 2023) Cynthia Teniente-Matson, Ph.D. (Jan. 2023 – present) | | | |
| Designations: Hispanic Serving Institution (HSI) ⁴⁸ Asian American and Native American Pacific Islander-Serving Institution (AANAPISI) ⁴⁹ | | | |
| Students – Enrollment Data ⁵⁰ | | | |
| Total Number of Students | | 35,719 | |
| State-Supported | | Self-Supported | |
| Undergraduates | 26,561 | Undergraduates | 144 |
| Grad & Post Bac Students | 5781 | Grad & Post Bac Students | 3233 |
| Student Ethnicity ⁵¹ | | | |
| Overall (includes State- and Self-Supported) | | | |
| Asian | | 34% | |
| Hispanic/Latino | | 28% | |
| White | | 17% | |
| International Student | | 9% | |
| Two or More Races | | 5% | |
| Race and Ethnicity Unknown | | 4% | |
| Black / African American | | 3% | |
| Native Hawaiian / Other Pacific Islander | | <1% | |
| American Indian / Alaskan Native | | <1% | |

⁴⁴ Unless otherwise noted, Cozen O'Connor obtained data concerning San José State University demographics, populations, Title IX and DHR staffing, operations and caseload from California State University and San Jose State sources. This report will be updated to reflect material inaccuracies brought to our attention on or before September 15, 2023.

⁴⁵ United States Census Bureau, <https://www.census.gov/quickfacts/fact/table/sanjosecitycalifornia/PST045221>, as of July 1, 2021.

⁴⁶ United States Census Bureau, <https://www.census.gov/quickfacts/santaclaracountycalifornia>, as of July 1, 2021.

⁴⁷ 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>.

⁴⁸ 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/ides/eligibility.html>

⁴⁹ AANAPISIs are defined under the Higher Education Act as colleges or universities with an undergraduate enrollment that is at least 10% Asian American and Native American Pacific Islander. Additionally, at least half of the University's degree-seeking students must be low-income. See <https://www2.ed.gov/programs/aanapi/eligibility.html>

⁵⁰ California State University Enrollment Data, Fall 2022, San José State University: 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.

⁵¹ *Id.* This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

| State-Supported (32,432 students) | | Self-Supported (3377 students) | |
|---|-------------------------------|--|-------------|
| Asian | 36% | White | 40% |
| Hispanic/Latino | 29% | Hispanic/Latino | 20% |
| White | 14% | Asian | 18% |
| International Student | 9% | International Student | 9% |
| Two or More Races | 5% | Race and Ethnicity Unknown | 6% |
| Race and Ethnicity Unknown | 3% | Black / African American | 3% |
| Black / African American | 3% | Two or More Races | 3% |
| Native Hawaiian / Other Pacific Islander | <1% | American Indian / Alaskan Native | <1% |
| American Indian / Alaskan Native | <1% | Native Hawaiian / Other Pacific Islander | - |
| Other Student Demographics ⁵² | | | |
| Overall (includes State- and Self-Supported) | | | |
| First in Family to Attend College | 23% | | |
| % students who are traditionally underrepresented ⁵³ | 32% | | |
| % of undergrads who were Pell Grant recipients ⁵⁴ | 36% | | |
| % of students who live on campus ⁵⁵ | 3% | | |
| % undergrads who are in a fraternity or sorority ⁵⁶ | 3.93% | | |
| 4-year graduation rate for first-time FT freshmen ⁵⁷ | 37.0% | | |
| State-Supported (32,432 students) | | Self-Supported (3377 students) | |
| Average Age | 23 | Average Age | 34 |
| Sex ⁵⁸ | 49% F; 51% M | Sex ⁵⁹ | 73%F; 27% M |
| First in Family to Attend College | 25% | First in Family to Attend College | 6% |
| % traditionally underrepresented ⁶⁰ | 33% | % traditionally underrepresented ⁶¹ | 24% |
| Instructional Faculty ⁶² | | | |
| Total # of faculty | 2050 | | |
| Tenure-track | 36% | | |
| Lecturer | 64% | | |
| % full-time ⁶³ | 46% | | |
| % part-time | 54% | | |
| Leadership body | Academic Senate ⁶⁴ | | |

⁵² *Id.*, except where noted otherwise. This data includes students at the undergraduate, graduate, and post-baccalaureate levels.

⁵³ For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

⁵⁴ 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.

⁵⁵ 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>

⁵⁶ San José State University FSL Community Report Spring 2022, p. 2, <https://www.sjsu.edu/getinvolved/docs/FSL%20Community%20Report%20-%20Spring%202022.pdf>

⁵⁷ California State University, Graduation & Success Dashboards, with link to Graduation Dashboard, selecting the Summary Overview tab, and with San José State selected in drop-down menu. See <https://www.calstate.edu/data-center/institutional-research-analyses/Pages/graduation-and-success.aspx>. This data reflects the four-year graduation rate for first-time full-time freshmen entering San José State during the Fall 2018 (most recent complete 4-year term available).

⁵⁸ Data does not capture number of students who do not identify on the sex/gender binary.

⁵⁹ *Id.*

⁶⁰ For purposes of this table, “traditionally underrepresented” refers to students with ethnicity of Hispanic, Black/African American, or Native American/Alaska Native.

⁶¹ *Id.*

⁶² California State University, CSU Faculty, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-faculty>, except where noted otherwise.

⁶³ California State University, CSU Workforce, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-workforce/Pages/default.aspx>

⁶⁴ San José State University, Academic Senate. See <https://www.sjsu.edu/senate/index.php>

| Staff⁶⁵ | |
|--|--|
| Total # of staff | 1460 |
| % full-time | 98% |
| % part-time | 2% |
| Collective Bargaining Units⁶⁶ | |
| 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) |
| Athletics⁶⁷ | |
| NCAA Division | I |
| NCAA Conference | Mountain West ⁶⁸ |
| Number of sponsored sports for '22-'23 academic year | 22 |
| Number of student athletes ⁶⁹ | 465 |

⁶⁵ California State University, CSU Workforce, Fall 2022. See <https://www.calstate.edu/csu-system/faculty-staff/employee-profile/csu-workforce/Pages/default.aspx>

⁶⁶ San José State University, University Personnel, Lists of San Jose State Union Stewards. See <https://www.sjsu.edu/up/myinfo/employee-labor-relations/sjsu-union-stewards/index.php>

⁶⁷ NCAA Directory, <https://web3.ncaa.org/directory/orgDetail?id=630>, except where noted otherwise.

⁶⁸ All sports are in the Mountain West Conference except Men's Soccer (Western Athletic Conference), Men's Water Polo (Golden Coast Conference), Women's Beach Volleyball (Southland Conference), and Women's Gymnastics and Women's Water Polo (Mountain Pacific Sports Federation).

⁶⁹ See U.S. Department of Education, Equity in Athletics Data Analysis, at <https://ope.ed.gov/athletics/#/>, data for San José State University. Number of student athletes equals the sum of the Unduplicated Count of Participants for Men's Teams plus the Unduplicated Count of Participants for Women's Teams.

Appendix II Feedback from Survey

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

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

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

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

We received feedback from students, faculty, staff, and administrators in the form of survey responses. In total, we received 1,445 responses⁷⁰ to the survey from San José State students, faculty, staff, and administrators as follows:

| Constituency | Number of Responses |
|--------------------------|---------------------|
| Undergraduate Student | 622 |
| Graduate Student | 260 |
| Staff | 287 |
| Faculty | 212 |
| Administrator or Manager | 82 |
| Other | 50 |

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:

- Institutional response to the Athletic Trainer’s abuse of student-athletes. Survey respondents stated that they lost trust in the university and — more specifically, in the Title IX and Gender Equity Office — because of information about abuse of student-athletes by an Athletic Trainer during his employment at San José State. Survey respondents indicated that, as a result, they questioned whether the Title IX and Gender Equity Office would take complaints seriously and address them appropriately.
- Distrust in Title IX and DHR representing interests of stakeholders. Many survey respondents expressed skepticism that university resources actually represented their interests. Instead, survey respondents stated that these offices served the university’s interests and only assisted impacted parties when those interests were aligned.
- Retaliation. While most survey respondents stated they were not concerned about retaliation, a sizeable minority described retaliation that they had witnessed or experienced.

⁷⁰ Some survey responders identified as belonging to multiple constituencies; hence, the number listed here is smaller than the sum total in the chart below.

- Safety on campus. Survey respondents stated that they did not feel safe on the outskirts of campus, and that regular presence of unhoused individuals or trespassers felt like a safety threat. Survey respondents also expressed concerns about active shooter scenarios.⁷¹
- Web resources. Many survey respondents requested a centralized “landing page” or other location where they could locate the proper resources to utilize, expressing confusion about the roles of various departments in relation to each other.
- Responsiveness and gaps in process. Many survey respondents reported having filed a complaint or report with the Title IX office, seeking a resolution, and being unable to reach anyone for prolonged periods. Some responders stated that they had no information regarding what happened to their complaint, if anything.
- Antisemitism. Several survey respondents reported a rise in antisemitism on campus, and expressed concern that complaints of antisemitism would not be taken seriously.
- Disability accommodations and inclusion. Throughout the survey, survey respondents raised issues of disability accommodations. Specifically, it was noted that accessibility tools and accommodations took too long to obtain and were subject to lengthy approvals. Neurodivergent responders noted feeling as though they were not included in university life and had experienced bias and discrimination.
- LGBTQIA+ representation and inclusion. Some LGBTQIA+ survey respondents described feeling underrepresented in training materials. Likewise, many reported feeling less likely to be able to use resources or more likely to avoid reporting issues specific to their gender identity, including intentional misgendering.

⁷¹ It should be noted that the survey was distributed at a time when there were several national incidents involving active shooters on campus.

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 San José State University, we reviewed the university's annual Title IX reports for years 2018-2019 through 2021-2022. These annual reports are posted online on San José State's Title IX and Gender Equity Office website.⁷² The annual reports provide data regarding the reports of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, Stalking, and – in 2021-2022, Sexual Exploitation and Sexual Harassment – made to the Title IX and Gender Equity Office each year. The annual reports reflect the number of reports received, disaggregated by the type of conduct and whether the respondent was a student, employee, or third-party, unknown, or unidentified. Beginning in 2019-2020, the annual reports also reflect procedural outcomes, including:

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

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

II. Caveats Regarding Interpretation of Data

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

⁷² <https://www.sjsu.edu/titleix/about/annual-reports/index.php> (last visited May 6, 2023).

the universities do not use consistent documentation and recordkeeping systems and practices to maintain their university's data; the structure and questions posed by the Chancellor's Office to request data for the annual Title IX report have changed over time and not all universities use the same report structure; some data requests and questions may be unclear and therefore subject to interpretation; and the annual Title IX reports do not capture foundational data that would enable an informed comparison between 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 university 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 university 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 university 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.

In presenting the below data, we note that some universities identified challenges with accuracy or completeness in their data. We have attempted to reconcile that data where possible, recognizing that some 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. San José State verified the accuracy of the 2021-2022 annual Title IX report via email on April 27, 2023.

Finally, we recognize the significant impact of the global pandemic on colleges and universities across the country, including San José State. While we cannot know the precise impact that the pandemic had on incidence rates, awareness of university resources, barriers to reporting and other relevant factors, we

are careful not to draw firm conclusions about trends over the past three years due to the obvious but unquantifiable differences in pre- versus post-pandemic conditions.

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

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

A. Types of Reported Conduct

| | 2018-2019 | 2019-2020 | 2020-2021 | 2021-2022 |
|--|-----------|------------|-----------|------------|
| Reports of Sexual Misconduct/Sexual Assault | 47 | 62 | 46 | 73 |
| Reports of Dating/Domestic Violence | 16 | 22 | 16 | 21 |
| Reports of Stalking | 16 | 20 | 12 | 38 |
| Sexual Exploitation* | - | - | - | 8 |
| Sexual Harassment* | - | - | - | 116 |
| Total # of Reports in Above Categories | 79 | 104 | 74 | 256 |
| * This data was not requested by the Chancellor's Office prior to the 2021-2022 academic year. | | | | |

B. Respondents' Roles

The below data relate to the numbers of reports of Sexual Misconduct/Sexual Assault, Dating/Domestic Violence, and Stalking only.

| | 2018-2019 | 2019-2020 | 2020-2021 | 2021-2022 |
|--|------------------------|------------|-----------|------------|
| Reports in which the respondent is a student | 34 | 43 | 22 | 50 |
| Reports in which the respondent is an employee | 3 ⁷³ | 4 | 13 | 11 |
| Reports in which the respondent is a third-party | 27 | 30 | 11 | 2 |
| Reports in which the respondent is unknown | 10 | 27 | 28 | 28 |
| Reports in which the respondent is unidentified | - | | | 41 |
| Total # of Reports in Above Categories | 74⁷⁴ | 104 | 74 | 132 |

⁷³ In the 2018-2019 annual Title IX report, the employee respondent category was further disaggregated into reports in which the respondent was a staff member and reports in which the respondent was a faculty member. In all three of the cases involving an employee respondent, the respondent was a faculty member.

⁷⁴ The 2018-2019 annual Title IX report reflects that there were 79 total reports of Sexual Misconduct/Sexual Assault, Dating/Domestic Violence, and Stalking but only 74 reports of those forms of conduct when broken down by respondent role.

C. Case Outcomes

The below data reflect the collective outcomes of reports to the Title IX and Gender Equity Office.⁷⁵

| | 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 | 30.1% | 33.8% | 60.5% |
| Reports in which the complainant’s identity was unknown to the Title IX Office | | 22.1% | <1% | <1% |
| Reports in which the complainant requested supportive measures or resources only | | 9.6% | 23.0% | 22.3% |
| Reports that resulted in other outcomes (except formal investigation) | | 26.7% | 28.4% | 17.2% |
| Reports that resulted in a formal investigation* | 20.2% | 11.5% | 14.8% | 0% |
| <p>* We learned through this review that this category is not an accurate indicator of the total number of investigations, in part because of how the question was narrowly framed by the Chancellor’s Office. This number does not capture investigations that were open at the end of the reporting period. It also doesn’t capture investigations that were substantially completed, but discontinued at the request of the complainant, because the case was otherwise resolved, or because the matter was dismissed based on mandatory/discretionary grounds under Title IX and university policy.</p> | | | | |

⁷⁵ As a reminder, in 2021-2022, the data included Sexual Exploitation and Sexual Harassment, which were not included in earlier years. Because of the manner in which data was gathered by the Chancellor’s Office, it is unclear how the addition of these two categories of conduct impacted the percentage of outcomes.