

PRESIDENTIAL TASKFORCE ON SEXUAL HARASSMENT REPORT

SEPTEMBER 2022

INTRODUCTION

CONTEXT

Recent events regarding sexual harassment have caused deep distress, anger and distrust. Crises like these can tear us apart or they can be an opportunity to come together. With this taskforce we chose to come together as a campus community to learn from the lessons of the past to chart the course for a better future. The taskforce brought together people from across the campus. Our discussions were always thoughtful, insightful and constructive, reflecting our shared commitment to our students and to giving them the best learning conditions we can – an environment free of harassment. We recognize that this year is the fiftieth anniversary of Title IX legislation. It also marked a change in the executive orders that prohibit sexual harassment in the CSU. The *Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation* went into effect in January 2022, right before we started the work of the taskforce. The interim policy outlines the appropriate procedures for handling complaints against employees, students, and third parties, e.g., university vendors, auxiliary employees, etc. Given the events that precipitated this taskforce and given the composition of the taskforce we decided to focus our attention this semester on sexual harassment complaints brought by students against employees while recognizing that many of our recommendations if implemented will have a broader impact.

Given the historical moment within which we are having this discussion it is important to reflect on the context within which we situate our discussion. We note that the pandemic has increased rates of social isolation, anxiety and mental health issues, especially among students. Social isolation caused by the pandemic created an environment where bystander intervention was much harder if not impossible. There was also an increase in intimate partner sexual violence and an increase in digital abuse, i.e., the use of technology to intimidate or harass someone. We also want to acknowledge that the #MeToo movement has had a powerful impact on awareness about workplace sexual harassment that cannot be downplayed. Cases that are coming to light must be addressed with a heightened level of seriousness given the rightful expectation of those experiencing sexual harassment to be seen and heard. The #MeToo movement also revealed that gaps in understanding still remain especially in ‘ambiguous areas’ where education and a commitment to allow for consciousness raising leading to behavior change on the part of individuals and of systems must be nurtured. Increased urbanization of the San Marcos area might create new challenges in terms of sexual violence. While this phenomenon may increase population density and thus increase opportunities for sexualized violence, it is important to note that most sexual harassment and violence incidents are perpetrated by people familiar to the victim, not the ‘stranger in the alley’. Increased presence of resident students expected in fall 2022 will also increase our need to be vigilant and pro-active in our prevention efforts.

Our work was informed by the findings of the spring 2021 campus climate survey. In Spring of 2021, CSUSM engaged in a concerted effort to collect data on campus climate from all constituents through administration of the Diverse Learning Environments (DLE) Survey to students and Viewfinder Survey to staff, faculty, and administrators. Safety, on and off campus, sexual harassment and sexual assault were among the many topics on which respondents were asked to provide insight. Questions were asked about whether respondents had experienced incidents of sexual harassment. They were also asked about their knowledge of the processes for reporting cases of sexual harassment and perceptions of campus response to reported incidents.

Viewfinder Survey (Spring 2021)

Among the staff (n=290), 73.8% chose agree/strongly agree to whether they knew where to file a harassment report; 57.3% chose agree/strongly agree to whether they knew how to file a report; 52.3% chose agree/strongly agree to whether they understood the process and 43.8% chose agree/strongly agree to whether they felt that complainants were treated fairly.

Among the faculty (n=184), 58.8% chose agree/strongly agree to whether they knew where to file a harassment report; 51.6% chose agree/strongly agree to whether they knew how to file a report; 49.2% chose agree/strongly agree to whether they understood the process and 35.9% chose agree/strongly agree to whether they felt that complainants were treated fairly.

Among administrators (n=107), 84.1% chose agree/strongly agree to whether they knew where to file a harassment report; 71% chose agree/strongly agree to whether they knew how to file a report; 60.7% chose agree/strongly agree to whether they understood the process and 50.6% chose agree/strongly agree to whether they felt that complainants were treated fairly.

The American College Health Association's National College Health Assessment survey was also administered in spring 2021. This nationally recognized research instrument collects data about students' health habits, behaviors, and perceptions. One of the questions asked was whether students had experienced unwanted sexual contact in the past year. Overall, 6.4% of our students responded that they had experienced unwanted sexual contact. Of these 1.1% of cisgender men, 7.8% of cisgender women and 12.1% of trans/gender non-conforming students responded that they had experienced unwanted sexual contact. These numbers reflect the added risk that women and trans/gender non-conforming students face that must be addressed in our care and prevention efforts.

Campus Input

We were able to attend meetings and seek input from the Executive Committee of the Academic Senate and the ASI board in April. We were also able to meet with and seek input from most of the Faculty Staff Associations and the American Indian students. We did not have time to seek input from the Student Life Centers. We also felt that we needed more input from students in general. We had three student reps on the taskforce but due to other commitments it was hard for some of them to attend our meetings. To that end we recommend that we continue the work of this taskforce into the fall in order to seek out and include student voices in an expanded way.

We will include the findings of those meetings in an addendum to this report by the end of fall 2022.

CHARGE

This taskforce is a university-wide effort. The membership represents the CSUSM community broadly and includes students, faculty and staff across divisions and departments, including individuals who regularly engage in preventing and responding to sexual harassment. The charge of the taskforce is outlined below:

- Review current sexual harassment policies, procedures and training;
- Recommend strategies to improve the communication and transparency of these policies, procedures and training programs;
- Recommend opportunities to expand and improve the effectiveness of training and prevention efforts; and
- Consider how we can improve the way we care for our community members who are impacted by sexual harassment.

MEMBERSHIP

Ranjeeta Basu, Professor, Economics - Co-Chair

Gloria Pindi, Associate Professor, Communication - Co-Chair

Aswad Allen, Chief Diversity Officer, Office of Inclusive Excellence

Avery Bather, Sexual Violence Prevention Educator & Advocate – Staff Rep

Bridget Blanshan, Title IX Coordinator, Title IX Office

Amy Carney, Professor, School of Nursing – Faculty Rep

Richard Carpenter, ASI Veterans Representative – Student Rep

Lavonne Davis, ASI Diversity & Inclusion Representative - Student Rep

Erika Gravett, Associate Vice President, Office of Human Resources

Bethany Hargraves, Student Equity Specialist, Title IX Office – Staff Rep

Michelle Hunt, Associate Vice President, Faculty Affairs

Cheryl Landin, Student Success & Equity Analyst, Office of Inclusive Excellence – Staff Rep

Yvonne Meulemans, Academic Senate Chair, Head of Library Teaching and Learning/Librarian

Paola Ometto, Assistant Professor, Management – Faculty Rep

Pamela Redela, Lecturer, Women's Gender and Sexuality Studies – Faculty Rep

Jason Schreiber, Dean of Students, Dean of Students Office

Codie Sterner, ASI Sustainability Representative – Student Rep

Lori Walkington, Assistant Professor, Sociology – Faculty Rep

CORE ASSUMPTIONS

- Understanding intersectional power differentials between students and faculty and how we need to guard against the abuse of that power through education and engaged training.
- Recognizing that sexual harassment is a social justice issue which is structural, institutional, and statewide and needs to be addressed at all levels to achieve transformative justice.
- Understanding the need for collective responsibility to address these issues and change the culture with special focus on bystander intervention and clear and concise language about mandated reporting.
- Balancing transparency and students' right to know with privacy laws.
- Understanding the role of the media
- Understanding LGBTQ+ and military affiliated issues with regard to sexual harassment.

DEFINITIONS

Sexual Harassment. Definition of Sexual Harassment excerpted from *Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation*

Sexual Harassment means unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to, sexual advances, requests for sexual favors, offering employment benefits or giving preferential treatment in exchange for sexual favors, or indecent exposure, and any other conduct of a sexual nature where:

- a. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a Complainant's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the university; or
- b. Submission to, or rejection of, the conduct by the Complainant is explicitly or implicitly used as the basis for any decision affecting a term or condition of the Complainant's employment, or an employment decision; or
- c. The conduct is sufficiently severe, persistent, or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting their ability to participate in or benefit from the services, activities or opportunities offered by the university; or
- d. The conduct is sufficiently severe, persistent, or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization or in exchange for a raise or promotion; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a work environment, or in a classroom where the images are unrelated to the coursework. Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of Sexual Harassment.

Sexual and/or romantic relationships between members of the campus community may begin as consensual, and may develop into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.

Prohibited Consensual Relationships. Definition excerpted from *Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation*

A Prohibited Consensual Relationship is 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.

Intersectional Power differentials. Crenshaw (1991) defines intersectionality as the lens through which one can understand the ways in which multiple sources of power that arise from different social identities intersect and collide with each other.

Transformative Justice. Transformative Justice (TJ) is a branch developed from Restorative Justice (RJ). While restorative justice programs seek interpersonal healing, they do not attend to the structural causes of oppression disrupting these communities (Kelly 2011; Morris 2000; Nocella 2014). While useful, restorative justice theories have varying definitions and implications and do not adequately address structural forms of harm. Key to transformative justice—in contrast to restorative justice—is the focus on structural forms of injustice, such as those that construct poverty and support state violence and connecting how past experiences relate to the present health of individuals, families, communities, and offenders in envisioning a better future (Kelly 2011; Mingus 2015; Morris 2000). Transformative justice moves beyond the immediate needs of all community members toward the structural oppressions that impact them in the present and impede their futures (Capeheart and Milovanovic 2007), while empowering communities to heal from violence and trauma without involving social services (Mingus 2015). This perspective recognizes harms at the economic, political, and social levels, while addressing imbalances of power (Mingus 2015; Nocella 2014; Walkington 2021).

Ambiguous Situations. We use this term in the report to address situations where the person might not know or feel that what they experienced was sexual harassment, but they believe it could be understood by others as sexual harassment or inappropriate behavior. It entails

situations where the person might not feel it is “severe, persistent, or pervasive” (as indicated in the Policy above on items c and d) enough to warrant a formal complaint, but that it is still not appropriate behavior.

RECOMMENDATIONS

While the current policies do outline the role of the title IX office in prevention/care/support we need to develop processes for transformative change where everyone is invited to participate in changing the culture. We need to dismantle the culture of secrecy with a culture of openness and transparency about the need to bring about transformative change that speaks to our values as an institution. We need to provide care for those experiencing ambiguous situations. We also need to provide resources and identify a path forward for people who have experienced it or those who have witnessed it. We need to ensure that the outcome reflects our commitment to prevention and transformative justice. We also need to ensure that we have the infrastructure to support the changes we are recommending by assessing our current capacities and expanding capacity where we need it as we phase in the recommendations over time. We need to hire more people for offices dealing with sexual harassment cases and provide funding for education and prevention. These positions must be permanent and well-funded to ensure that we hire people with appropriate expertise and who reflect the diversity of our campus community, especially our student body.

RESOURCES

- We recommend assessing our current capacity to deliver expanded training, care and advocacy and hire more people as needed when we phase in the expanded training and care recommended in this report. In the short-term, we anticipate the need to add staff to the Title IX Office with a focus on enhancing communication with and supportive resources for parties seeking services of the office and increasing the unit’s capacity to provide training to our campus community. Further, we anticipate the need to add capacity for prevention programming in Student Health & Counseling Services. In the long-term, we recommend that we consider establishing a stand-alone center for care and prevention education or expanding the existing HOPE & Wellness Center. We anticipate that eventually we would need to:
 - hire more full-time, permanent staff positions as needed to coordinate all prevention education and develop program content
 - hire more graduate assistant positions annually as needed to support prevention education staff
 - hire more student peer educators (hourly or stipend) as needed to expand the existing Sexual Violence Peer Education (SVPE) program, currently operating with only volunteers
 - include CSUSM faculty and staff experts to help with the training for faculty and staff and compensate them accordingly
- We need points of contact within colleges and who can partner with the Title IX office in the spirit of shared responsibility. For example, Associate Deans or Student Services Professionals may serve as a point of contact within a college and can work collaboratively with the Title IX office

- We recommend ongoing attention to campus safety by providing adequate lighting in needed areas, safety protocols in residence halls, and review on-campus escorts to reflect the diversity of our campus community, in general and student body, in particular. This is of particular importance as the community adjacent to the campus becomes increasingly densely populated in the near future.
- We recommend ongoing attention to providing more all-gender, i.e., gender inclusive bathrooms all over campus. For instance, we should include all-gender bathrooms in each building on campus. This will help accommodate the needs of people with disabilities, LGTBTQ+ members of our community, and more particularly trans people.

CAMPAIGN TO RAISE AWARENESS ON MATTERS OF SEXUAL HARASSMENT

Discussion: The data from the campus climate surveys shows us that there is a clear need for more education and dissemination of information regarding processes and policies. We also know that transformative change requires engagement and participation by the entire campus community. Recent events have rekindled interest in sexual harassment and urgency to improve the learning and working environment for our students and employees. We want to leverage that interest by providing relevant and up to date information about sexual harassment: how we can understand it; how we can prevent it; how we can report it; how we can care for each other when we go through it. This year is the 50th anniversary of Title IX legislation and the awareness campaign could be an appropriate way to celebrate this landmark legislation while also learning about the sexual harassment component of it. We urge the campus community to take responsibility for engaging with these efforts and educating themselves and others.

Recommendations:

- We recommend launching an awareness campaign on sexual harassment and sexual misconduct in fall 2022. The campaign should include various resources/tools (e.g., banners, infographics, a graphic to describe the reporting process etc.). We should share all the necessary information people need to know about different aspects of the process including but not limited to policies and procedures, investigation and alternative resolution opportunities and how the work of the Title IX office flows into student and employee discipline processes etc.
- We recommend that the campaign should also discuss the ambiguous cases that don't fall within the predefined criteria/standards of sexual harassment as described in the policies and procedures including campus entities that will be engaged in addressing them as this becomes identified.
- We recommend that different groups/units involved in the process of handling cases of sexual harassment should join the campaign to explain the role they play (e.g., CFA, Title IX office, Faculty Affairs etc.)
- We recommend that findings about knowledge/competencies/climate from campus wide surveys be shared and that these findings be used to make improvements.

RETHINKING THE TRAINING ON SEXUAL HARASSMENT

Discussion: To change the campus culture around sexual harassment, our community must do more than simply comply with federal prevention requirements by mandating completion of online training modules. Prevention education must begin at orientation and build throughout academic years and employment at the university. To create an informed and accountable community, we need to increase the frequency of training and deliver it in multiple formats. Other institutions have implemented effective prevention education programs, and we suggest using these as models. Our recommendations for sexual harassment training are based on recent public health research in campus violence prevention, successful programs at other universities, and conversations with CSUSM community members. As mentioned earlier we will need to assess our current capacity to offer expanded training and add more personnel as needed.

Recommendations:

- We recommend mandating annual participation in an in-person, interactive workshop on sexual harassment prevention for all CSUSM students and employees. We recognize that mandating training for faculty and staff will require negotiations with the unions. But based on our preliminary discussions with the faculty union we are confident that we can collaborate and work together as a campus community to require and offer training in a phased-in way reflecting our shared commitment to our students.
- We recommend that the training content:
 - is developed and delivered through an intersectional and trauma-informed lens
 - brings awareness to the influence of power differentials
 - progressively builds and adapts according to the climate
 - includes skill-building bystander intervention training
 - emphasizing how preventing sexual harm is our shared responsibility
 - empowers individuals serving in leadership positions (e.g., chairs, managers, etc.) to practice early intervention and care
 - empowers those who work directly with students such as student coaches, advisors, student life center staff and faculty to practice early intervention and care
 - focuses on what “to do” rather than what “not to do” to prevent sexual harm
 - debunks myths and addresses generational and cultural differences around sexual harm
 - addresses how to navigate situations that fall into the “Ambiguous Situation Area”
 - is offered in Spanish and English
- In light of data demonstrating that LGBTQIA+ identifying campus community members experience sexual harassment and assault at significantly higher rates than those who do not identify as LGBTQIA+, the following inclusive practices should be strengthened in training efforts:
 - incorporate gender inclusive language, particularly with the use of pronouns and mentions of partner abuse
 - provide ongoing training and education on working with the queer community to on-campus medical providers who provide services to those who experience sexual harm
 - include examples of men impacted by sexual harm to encourage reporting by men

- We recommend developing an evaluation to continually assess the training's impact and effectiveness.

Recommendations Specific to Student Training:

- Consistent with the online "Not Anymore" training, we recommend mandating student participation in the peer-led workshop series. Students who complete the series should be encouraged to become trainers themselves.
- The program should build year-to-year with the objective of increasing knowledge and changing beliefs and behaviors.
- We recommend implementing this program through a "train-the-trainer" peer education model, by expanding the capacity of the existing Sexual Violence Peer Educators (SVPEs) team, currently overseen by the Sexual Violence Prevention Educator & Advocate in Student Health & Counseling Services.
- The current SVPE program consists of 5 volunteer peer educators who are trained in violence prevention and co-facilitate workshops

Recommendations Specific to Employee Training:

- We recommend mandating all CSUSM employees (faculty, staff, and administrators) participate in an interactive workshop at the time of hire and each year of employment.
- The training should cover campus sexual harassment policies, procedures, prevention, trauma-informed responses, and transformative justice. It should also include any updates or changes in policy/procedures related to Title IX.
- We recommend offering incentives for completing the workshop (such as an email badge/logo similar to "Safe Zone," a certificate to add to CV, etc.). Incentivize faculty participation as a service to the university and students to include in Working Personnel Action File (WPAF).
- Participation should be recognized as positive contributions to the university as part of the periodic performance review processes (e.g., Professional Development Plan/PDP for staff and administrators) for faculty, staff, and administrators.
- Offer group specific training for employees (e.g., cisgender women, transgender women, cisgender men, etc.) to offer a brave space to process and provide relevant information specific to their respective identities.

CARE AND SUPPORT

Discussion: We need to be more visionary and think about transformative care. This is in keeping with our culture of care goal on campus. We need to emphasize the difference between restorative care as a progressive approach aiming to help the individuals or actors involved in a case of sexual harassment vs. transformative care as a systemic approach aiming to change the culture around sexual harassment. Transformative care is also about recognizing that Title IX allegations can be weaponized, e.g., allegations may be motivated by explicit or implicit bias. It is important to recognize the complexity of each case and pay attention to multiple sources of power differentials while allegations are handled as required by law and CSU policy

Recommendations:

- As mentioned earlier we recommend that the care and prevention office be a stand-alone, autonomous entity so that it can fully serve the entire campus. To comply with confidentiality/privilege laws, the office needs a supervisor who is certified as a Sexual Assault/Domestic Violence Counselor. While our advocates presently serve employees as well as students, their placement within Student Health & Counseling suggests otherwise. Such an entity needs to be well-resourced to be able to do its work effectively. We also need to make sure that people from historically marginalized groups feel comfortable and receive appropriate care when they come to this office and see people there who understand their lived experience through an intersectional lens. Supportive resources are discussed with individuals who are connected with the Title IX Office regardless of their wishes to initiate a complaint. This occurs for those who seek services directly as well as individuals who are referred and/or become known as a result of a mandatory report. In the latter cases, Title IX reaches out to establish a connection and does not wait to be sought out. To the extent possible, care and supportive resources are tailored to meet individual needs throughout Title IX processes, and high touch referrals are made to other departments providing services that address long-term needs. Common referrals include Student Health & Counseling Services and Disability Support Services for students who are experiencing anxiety, depression or other impact on their health, and Cougar Care Network for students who are struggling with their basic needs. We recommend the capacity of the Title IX office be reviewed to coordinate such care and resources on behalf of individuals (when they agree) not only during their direct interactions with the office but also monitor their academic success and continued enrollment through graduation.
- We recommend that we work together as a community to provide pro-active care to those who have experienced or are experiencing sexual harassment. When someone has been subjected to sexual harassment, they often feel alone yet hyper visible. We need to provide support/training to families; to FSAs; and to union leaders so they can work together to be a support system, a community of care for those experiencing sexual harassment. We need cultural expertise on how to provide that training.
- We recommend that the Title IX office expand equitable care resources to both complainants and respondents. This will help address the gap in resources for faculty/staff/administrators such as those who have no or limited access to union representation. The ombudsperson might have a role to play in this process.
- We recommend that we provide students who have experienced sexual harassment the option of receiving therapeutic care from well-trained psychologists and counselors who have sexual harassment/trauma care as one of their areas of expertise. While we have a counseling faculty member with these professional credentials, we recommend hiring as many positions for students as needed. These positions must be permanent and well-funded to ensure that we can hire people with appropriate expertise and who reflect the diversity of our campus community, in general and student body, in particular.
- We recommend that Employee Assistance Program (EAP) consider identifying one or more professionals who have sexual harassment care as one of their areas of expertise to provide care to employees who are impacted by sexual harassment.
- We recommend that we provide care for faculty/staff/admin personnel who are not only mandatory reporters, but also bystanders who take on an extra level of responsibility and stress given the intensely personal nature of this issue.

CURRICULUM AND PEDAGOGY

Discussion: Creating and disseminating content to educate the campus community on rape culture is an essential piece of the effort to end sexual harassment. While the current video training required for CSU employees and students do offer valuable information, that information is not always retained or put into practice. In this recommendation, we explore ideas about moving to a transformative model that invites participants to become more engaged with the CSUSM community. We recommend Senate (for example, FAC) consult with colleges and other units to invite faculty to make changes in curriculum/pedagogy in such a way that we can insert anti-rape culture education in various spaces on campus.

Recommendations:

- We recommend that faculty use their classroom as a space to collect students' opinions and share information about matters of sexual harassment. This is a good way to give voice to students and for them to share their concerns and feedback on these issues. A module that instructors can integrate into the 1st week of classes, the week before Spring break, and the end of the semester would allow for scaffolding of learning and an opportunity to connect the topic to any/all course content. For those who feel the topic does not apply to their course content, connecting the module to the "Culture of Care" goal in the CSUSM Mission, Vision, and Strategic Plan will allow for ease of integration into class time. GEL courses might be a good place to start.
- We recommend that faculty include language/statement in the syllabus about sexual harassment and also other forms of harassment and discrimination (work on this is currently taking place with Academic Senate at CSUSM and statewide. CSUSM Academic Senate APC Committee has received this referral.). It will be important that the language be easily understandable for everyone.
- We recommend that a specialized group of faculty, students, and other stakeholders be employed to create a module with various resources on sexual harassment to install in the campus on-line learning management system (Cougar Courses or Canvas). The module/container should be easily accessible by placing it on the CSUSM page, on cougar courses/Canvas and linked in individual courses/listed on the syllabus. This module must be made permanent, so teachers don't have to import it every semester when they want to build their courses. (As in, the module appears on the homepage of every student & employee who logs into the learning management system.)
- We recommend further Academic Senate discussion about integrating anti-sexual harassment content into curriculum and/or the Faculty Ethics policy.
- We recommend increasing support for scholarly work on sexual harassment. A research group can be formed (with compensation) to create a university-wide project to document CSUSM efforts in this area.
- We recommend inclusion of anti-rape culture education into department or college level diversity action plans and rewarding people when they do this work.

IMPROVEMENTS IN CAMPUS PROCEDURES AND STRUCTURE

Discussion: Much of the process and procedures regarding the reporting and handling of cases of sexual harassment is strictly prescribed by the *Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence,*

Stalking, and Retaliation, which in turn is governed by state and federal laws. Compliance with the policy is a minimum floor that we must adhere to, but compliance has never been the aspiration or mission of this work. We want to address more fully those areas that are not covered by the policy such as the ambiguous situations discussed above. Data from the spring 2021 survey described above informs us that a significant percentage of faculty, staff and administrators do not know how the process works. We can only surmise that these numbers are even higher for students. Therefore, it is critical that we make the process more accessible and understandable.

During task force deliberations, the name of the “Title IX office” was discussed. It appears that members of the campus community are unaware of the term, “Title IX,” and don’t fully understand its scope, and/or the requirements to adhere to laws and related policies. For example, the task force discussed that members of the campus community don’t know where to go to report concerns about sexual harassment and related matters governed by Title IX. However, a link entitled, “Title IX” has been on the university homepage for several years. During the task force’s deliberations, we had a beneficial discussion regarding how the requirements for equity, objectivity and parity under Title IX must be operationalized by the Title IX office as compared to the services and programming provided by CSUSM advocates and prevention specialists. For example, in discussion of how the units refer to individuals who report experiencing sexual harassment or sexual violence, the advocates commonly use the word, “survivor.” However, Title IX office personnel are limited to the term, “complainant” at least until such time as there are findings of sexual harassment or sexual misconduct against the “complainant” by the “respondent” in order to underscore the objectivity required during investigation. It was also relayed by the Title IX office that occasionally past complainants have assumed the Title IX office was there “to take their side.” While the Title IX office oversees supportive resources for individuals whose reports are never investigated, as well as before, during and after investigation, it must do so with ongoing attention to equity, objectivity and fairness as required by CSU systemwide policy which is informed by federal and state law.

Recommendations:

- We recommend that a name such as University Equity or Institutional Equity be considered for what is now referred to as the Title IX / Discrimination, Harassment and Retaliation Office. In addition to considering a name change, the task force also recommends that the present Title IX /DHR Office work with IITS to ensure that key search terms such as sexual harassment when used on the website’s search feature generate the office website as the first search result.
- When ambiguous situations occur that don’t yet meet the standards laid out in the CSU policy, members of the campus community need to know where to go and whom to talk to in order to be heard and receive information and care. We recommend that we use the bias incident reporting process currently being developed by Office of Inclusive Excellence in collaboration with the Title IX Office and Office of the Dean of Students to address ambiguous situations while recognizing that sexual harassment may be governed by different protections as compared to other forms of harassment.
- To make the reporting process easier to understand and to access in multiple places, we recommend that we identify and train Title IX liaisons in the colleges and in OIE, ASI and perhaps the student life centers who might be a resource or a place to report. The Title IX office would have to provide training and oversight.

- We recommend the Title IX office respond to individuals who make a mandatory report or refer others to Title IX within 1-2 business days. Presently Title IX's outreach is focused on the person who reportedly experienced the harassment. However, in consultation with constituents it became clear that the reporting party is often consulted for support after the report is made. We recommend that the Title IX office partner with Dean of Students Office and other appropriate units to develop a one-stop webpage where students could go if they need to report or file any type of complaint. It should include an explanation of how various processes work and what can and cannot be disclosed by law.
- We recommend that we expand training and care to employees (including advocates, student coaches, mandated reporters, etc.) about trauma-informed response to disclosure of sexual harassment so they may learn how to give appropriate care and support to those reporting their experience of sexual harassment. We also recommend to the CSU system that they expand such training to the arbitrators and hearing officers too.
- We recommend that we initiate a program in which people who failed to respond appropriately to students who reported on cases of sexual harassment (such as faculty, staff, and administrators) go through additional training/education as part of their professional development. The program must be mandatory to emphasize accountability. The program must have a face-to-face component. The program should not be presented as a punishment/disciplinary action, but rather as an opportunity for improving/upgrading one's knowledge and education on matters of sexual harassment.
- Prior to the pandemic, the Title IX office moved to Craven 3200. The space is undergoing renovation with an intentional eye toward safety and trauma-informed design, e.g., a confidential waiting area, wall color and office furniture, etc. We recommend virtual appointment opportunities continue for community members who prefer to not go to the space to receive services.
- In situations where some type of space separation is requested by the complainant, we advocate that, when permissible, the complainant not bear the burden of moving. This has been the practice; however, as federal and state law has evolved in this area, there are situations when this is not allowed.
- We recommend that the Faculty Affairs Committee of the Senate consider amending the faculty ethics policy to strongly encourage faculty to not engage in consensual relationships with students that are sexual/romantic in nature, not only those where supervisory dynamics are involved (see Prohibited Consensual Relationships definition above). There is always a power imbalance between faculty and student that compromises confidence in non-coerced consent. We recommend a similar initiative for relationships between staff/administrators and students.
- We recommend that all units/groups that interact with people experiencing sexual harassment take an intersectional power differential approach to their work.

COMMUNICATION AND TRANSPARENCY

Discussion: Some of the critical issues pertaining to communication are transparency and privacy/confidentiality, accountability and lack of awareness about the information sharing process. Under the CSU Sexual Harassment Policy, confidentiality of people involved in a sexual harassment investigation must be maintained. However, lack of knowledge about what can be shared or not about a case and its resolution could result in mistrust and

misunderstanding. For example, from recent events at CSUSM, we know that many people only became aware of cases of sexual harassment due to news coverage. Furthermore, even when information and resources about sexual harassment is available, it might not be clear and easily accessible. Our recommendations are aimed at addressing the issues discussed above. We urge the campus community to take responsibility for engaging with these efforts and educating themselves as well.

Recommendations:

- We recommend that we educate the campus community (see awareness campaign) on specific topics/concepts regarding how a sexual harassment investigation occurs, what are the possible outcomes, and what can be publicly shared or not (Information that can be used to create these communication materials are provided in Appendix A). For example:
 - What can be shared with the general public about an investigation, the result of an investigation, a settlement, etc.
 - Who has access to the information about an investigation, the result of an investigation, a settlement, etc.
 - The difference between confidentiality and disclosure and what counts as agreement of non-disclosure and the legal aspect of this process.
 - Discussion of principle of due process.
 - Role of media in the process
- We recommend that we inform the campus community about sexual harassment related occurrences by providing regular statistics about complaints received investigations conducted, settlement and disciplinary actions that happened. Information about sexual harassment is not posted on the Clery site, as it is not required under Clery. Such information, however, could be compiled (independent of Clery) and provided in terms of annual statistics, not tied to individuals to preserve confidentiality.
- We recommend that we educate the campus community on how the California Public Records Act (CPRA) works, and how it could be used to request access regarding sexual harassment investigations. We recommend that we also educate the campus community on how these requests are rigorously analyzed.
- We recommend improving the title IX website such as including more diverse representation of marginalized communities.
- We recommend making resources easily accessible on the CSUSM App.
- We recommend that the process, timeline, and hand off needs to be clearly communicated to all mandated reporters including student life centers, faculty, department chairs. We should provide a flowchart of the process with a timeline.

CONCLUDING Remarks

The cultural moment that we find ourselves in can be regarded as an entrenched challenge, a moment of reflection, and an opportunity to move forward with a focus on human dignity. The influence of heteronormative, patriarchal gender roles and expectations is a basic piece of rape culture and the #MeToo moment brought some truths to light that we must confront as an organization embedded in a larger culture. CSUSM has an opportunity to be a leader in the

surrounding community and region by showing a clear dedication to cultural progress through concrete changes on campus that will ripple outward. We recognize that we have put forward many recommendations and it might not be feasible to do them all at once. We also understand that various offices on campus will have to be invited to participate in the implementation phase of this process. To that end, we recommend a phased-in approach with clear benchmarks and regular reports on progress made at six-month intervals. Each one of us on campus has a role to play in making such a project work. The establishment of this taskforce is a first step on the path to change that must continue.

APPENDIX A – INFORMATION TO BE USED IN COMMUNICATION MATERIALS

Confidentiality

With respect to sexual harassment and related claims, confidentiality obligations differ depending upon a number of circumstances, such as whether confidentiality is being requested by a victim and to whom the information is being provided. The [Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#) (the “Interim Policy”) provides guidance as to what must remain confidential and exceptions.

The Interim Policy details who is not under an obligation to report, with limited exceptions. For example, Sexual Assault Victim’s Advocate, Counselors and Physicians are not under a duty to report (again with limited exceptions.) “[A] Sexual Assault Victim's Advocate refers to Employees or third-party professionals designated to support Complainants reporting Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking ... They are committed to maintaining the highest possible level of confidentiality permissible under state and federal law in their communications with the persons they assist.” (Article VII.B.24 – see the same section for others who do not have a duty to report, again with limited exceptions.)

The Interim Policy provides other information with respect to confidentiality, including:

- “For certain sex offenses the victim has the right to affirmatively request from University Police, after being informed of their options, that the victim's identity remain confidential.⁹ However, even if the victim requests confidentiality of identity, the University Police should specifically ask the victim if the victim's name can be provided to the Title IX Office so that the Title IX Coordinator can contact the victim to discuss supportive measures that can be offered. And in all cases, even when the victim requests confidentiality, the identity of the alleged perpetrator (if known) must be reported to the Title IX Coordinator.” (Article V.C.)
- “The campus will be unable to investigate a particular incident or pursue disciplinary action if an individual chooses to: (1) speak only to a physician, professional counselor, clergy member, sexual assault counselor, domestic violence counselor or advocate; and, (2) maintain complete confidentiality. Even so, these individuals will receive assistance in obtaining other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, and information regarding their right to make a Complaint to the campus and a separate Complaint with local or University Police.” (Article V.C.)
- The Interim Policy discusses “Supportive Measures,” which “are individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether a Formal Complaint is filed. Supportive Measures are designed to restore or preserve equal access to CSU education programs or activities, or the workplace without unreasonably burdening the other Party, including to protect the safety of all Parties or the educational or work environment.” (Article VII.B.27.) They note “Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures.”

The Interim Policy details what occurs when a Complainant requests confidentiality, noting, among other things:

- “To protect the campus community and to facilitate investigations and/or Supportive Measures, when necessary, certain information may be shared on a "need-to-know" basis. Therefore, a campus cannot guarantee confidentiality.” (Article IV.C.iii.)
- “Confidentiality of reports, Complaints, and associated processes will be provided whenever possible.”(Article IV.C.iii.)

- “Reasonable steps will be taken to provide for the safety of a Complainant while keeping the Complainant's identity confidential as appropriate and if possible. These steps may include changing living arrangements or course schedules, assignments, or tests. The Complainant will be notified that the steps the campus will take may be limited by the request for confidentiality.”(Article IV.C.iv.)

Complainant, respondent, perpetrator, and witness information must also be kept confidential under the Interim Policy, with limited exceptions. Article XII. Retaliation, the Interim Policy states:

The campus will keep confidential (except as may be permitted by the FERPA statute or FERPA regulations, or as required by law, or to carry out the purposes of this Track, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder) the identity of:

- Any Individual who has made a report or Formal Complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, as defined under Article VII.C of the Policy.
- Any Complainant.
- Any Individual who has been reported to be the perpetrator of sex discrimination.
- Any Respondent.
- Any Witness.

Clery Act Reports

The Clery Act requires institutions of higher education to provide annual safety reports, with statistical information, and maintain two types of alerting systems, timely warnings, and emergency notifications, for separate and distinct purposes. Timely warnings occur when Clery crimes reported to a campus security authority or local law enforcement pose a serious or ongoing threat to the campus community. Emergency notifications occur when there is confirmation of an immediate threat to the health and safety of the campus community, such as severe weather warning, environmental emergency, Criminal activity with an imminent threat to campus community, health pandemic on campus. More information about these reports, disclosures, the Clery Act and more can be found on CSUSM's [Clery site](#).

Public Records Requests

The California Public Records Act (CPRA) and the CSU Auxiliary Organizations Transparency and Accountability Act (SB 8) provides that members of the general public may request state agencies and their auxiliary organizations to disclose public records. California State University, as a public agency, and its auxiliary organizations, has a legal obligation to respond within ten (10) days of receipt of the request. Requests and records are facilitated by CSUSM's Campus Coordinator, within the bounds of the California Public Records Act (Gov. Code section 6250 et seq.) and other applicable law. More information regarding Public Act requests, access to CSU records, payment for public record documents and more can be found on [CSUSM's Public Records Requests page](#).

Due Process

Due Process stems from the Fifth Amendment to the US Constitution, which says, to the Federal government, that no one shall be "deprived of life, liberty or property without due process of law." Similarly, the Fourteenth Amendment's Due Process Clause applies to the same words to create a legal obligation for all states. Due Process is a very broad principle, which has a variety of definitions. What due process means in any given context requires a legal analysis and discussion that is broader than this document.

APPENDIX B – MATERIALS FOR CURRICULUM

Material to review:

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- Rowan, Leonie. *Higher Education and Social Justice: The Transformative Potential of University Teaching and the Power of Educational Paradox*. Cham: Springer International Publishing AG, 2019. Web.

- SITZMANN, TRACI et al. "The Comparative Effectiveness of Web-Based and Classroom Instruction: A Meta-Analysis." *Personnel psychology* 59.3 (2006): 623–664. Web.
- Walkington, Lori. "Speak about it, be about it: Spoken-word poetry communities and transformative social justice." *Critical Criminology* 29.3 (2021): 649-666.