San Francisco State University

Office of the Vice President for Student Affairs & Enrollment Management
Equity Programs & Compliance

FY 2017-2018 Title IX Annual Report

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INTRODUCTION

August 2018 marked the 4th anniversary of the founding of **Equity Programs & Compliance (EP&C)**. Since the office was established, the number of dedicated professional staff has grown from 1.0 FTE to a team that now comprises a total of 7.0 FTE full-time team members: two case managers, four investigators and one administrative support staff member who also coordinates outreach, advocacy and intervention. This constitutes a resounding investment from the President and the Cabinet in our efforts to ensure compliance with the California State University (CSU) Executive Orders (EO) 1095/1096/1097, as well as promote equity and inclusion through related actions and efforts. As a result, while there is ongoing room for improvement, EP&C has experienced notable gains in both effectiveness and efficiency over time. The quality of investigative reports has improved notably; and, response to initial complaints and follow-up from intake to interim remedies, intervention through investigation, have become more timely.

Throughout the past four years, the Executive Orders have undergone three revisions, and we are poised to implement a fourth iteration of revisions in the upcoming year. An advisory review conducted by the CSU Systemwide Title IX Compliance Officer during July 2017 observed that San Francisco State has created a "Title IX culture" in which there is broad buy-in from various constituents in both training, reporting, and compliance initiatives. The University Police Department was commended for its particularly strong commitment to supporting sexual misconduct-related response efforts.

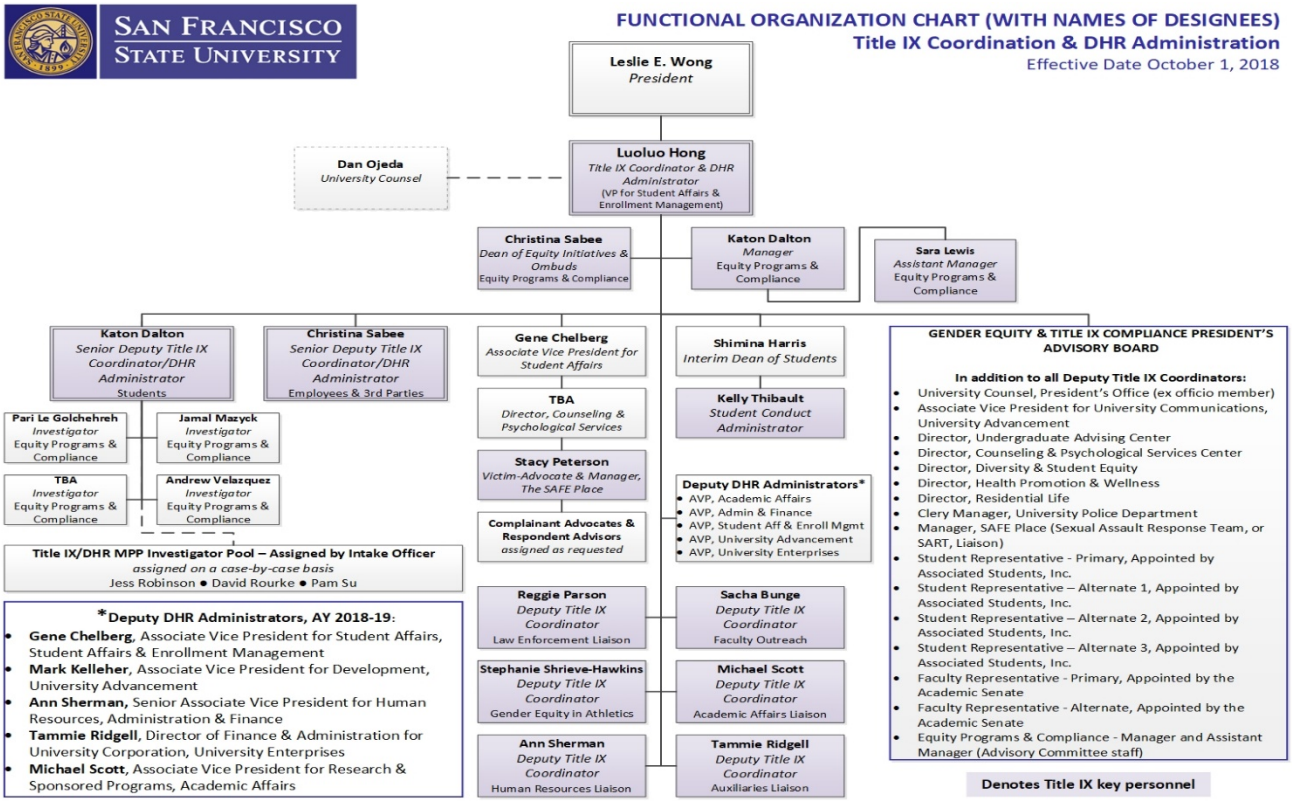
Initially in its earlier years, EP&C was inundated primarily with sexual misconduct-related complaints from students. This past year, we began to observe a notable increase in the number of complaints filed by faculty and staff, encompassing issues related to discrimination, harassment and retaliation – across the full range of protected classes. Like other campuses across the country, we also experienced notable increases in reporting as a result of the #MeToo social media campaign in October 2017 and related grassroots efforts known as "Time's Up." Due to an aggressive outreach and training campaign, San Francisco State continues to have one of the highest reporting rates under EO 1096/1097 within the CSU system.

In all of its efforts, EP&C continues to be incident responsive, and not just complaint driven. Concerning systemic issues, problematic patterns, and other similar observations are conveyed to the appropriate responsible administrators for relevant action and attention whenever possible. In part, due to the unit's attention to engage a more proactive responsive to our EO 1095-, 1096- and 1097-related responsibilities, several recommendations that were advanced in prior years came to fruition in AY 2017-18. First, the campus' first-ever Ombuds position was established in July, 2017 with the support of Academic Senate, Office of Human Resources, and Office of Faculty Affairs. Dr. Christina Sabee, Dean of Equity Initiatives, is the inaugural appointee. This position provides confidential, multipartial crisis intervention, conflict resolution/mediation, and resource referral to employees of the University who may not know where else to turn for advice, guidance or help.

Second, the Division of Equity & Community Inclusion was established in August, 2017, intended to serve as the proactive outreach, training and educational partner in a comprehensive campaign to promote equity, inclusion and social justice, as well as a positive campus climate. Dr. Manuel Pérez, Assistant Vice President, is the inaugural appointee to lead these efforts, which encompass three units: AAPI Student Services, Black Unity Center, and Office of Diversity & Student Equity (including Dream Resource Center). Plans are underway to establish Latinx Student Services, PRIDE Center, and Intercultural & Interfaith Programs in the near future.

Finally, the campus will implement for the first time a comprehensive Campus Climate Assessment Project, seeking input from students, staff, faculty and administrators; Rankin & Associates was hired as the consultant to work with the campus collaboratively in this 18-month process, which will ultimately result in an action plan for addressing identified areas for improvement and strategic intervention.

TITLE IX COORDINATION AND DHR ADMINISTRATIVE STRUCTURE[1]



The organizational structure for supporting Title IX Coordination and DHR Administration at SF State has the advantage that one executive office is privy to the content and resolution of all reported incidents and inquiries that come through Equity Program & Compliance. It is important to note that the Office receives a large volume of complaints and reports, but not all cases

[1] The Functional Organization Chart (with names of appointees) can also be accessed here: http://titleix.sfsu.edu/sites/default/files/TitleIXOrgChart.pdf

ultimately fall under the purview of the Executive Orders. Regardless, there is appropriate follow up in all situations, and the response is commensurate to the context of each incident or inquiry.

Because we have a "big picture" perspective and systemic view of the kinds of issues and concerns that arise for both students and employees related to discrimination and/or harassment, as well as inequitable treatment, on the basis of any protected class, EP&C is uniquely situated to recognize systemic issues or organizational patterns and work to address, alleviate or ameliorate these as quickly as possible.

SF State continues to enhance how Title IX and Discrimination, Harassment & Retaliation compliance is administered. This past year, our compliance efforts have been augmented by building stronger partnerships with Office of Labor & Employee Relations and with Faculty Affairs; our University Counsel has also played a more active role in reviewing investigation reports and difficult case management issues.

Title IX Coordinator and DHR Administrator

At SF State, Dr. Luoluo Hong, Vice President for Student Affairs & Enrollment Management, is the designated Title IX Coordinator and DHR Administrator. Dr. Hong coordinates compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex or gender in education programs and activities. As Vice President for Student Affairs & Enrollment Management, Dr. Hong has the independence to avoid any potential conflicts of interest; the qualifications, training, and time to address complaints; and, the authority to fulfill this coordination responsibility. In her capacity as Title IX Coordinator, Dr. Hong coordinates responses to all incidents involving possible discrimination, which includes monitoring outcomes, identifying and addressing any patterns, and assessing effects on the campus climate; she also oversees and ensures all efforts to educate, train and raise awareness of SF State students and administrators/staff/faculty as required by policy and external mandates. Her current biographical information can be found at http://vpsaem.sfsu.edu/sites/default/files/Luoluo_Hong_VPSAEM_Bio.pdf.

Title IX and DHR Coordination

Title IX & DHR Oversight Team

In executing a coordinated and institutional response to allegations of prohibited conduct, SF State formed a **Title IX & DHR Oversight Team** (Oversight Team) responsible for case management. CSU Executive Orders 1095, 1096 and 1097 allows the Title IX Coordinator and DHR Administrator to delegate duties as necessary. The Oversight Team coordinates and monitors reports and investigations to assure that responses are timely, appropriate, impartial, and in compliance with all relevant CSU Executive Orders.

The Oversight Team is comprised of the following individuals:

- Title IX Coordinator & DHR Administrator
  Dr. Luoluo Hong, Vice President for Student Affairs & Enrollment Management
  415.338.7313, vpsa@sfsu.edu

- Sr. Deputy Title IX Coordinator & DHR Administrator for Employees & Third Parties
  Dr. Christina Sabee, Dean of Equity Initiatives
  415.338.2032, csabee@sfsu.edu

- Sr. Deputy Title IX Coordinator & DHR Administrator for Students
  Mr. Katon Dalton, Equity Programs & Compliance Manager
  415.338.2967, kdalton@sfsu.edu

- Sara Lewis, Assistant Manager, Equity Programs & Compliance
  415.338.6053, saral@sfsu.edu

Equity Programs & Compliance Leadership Team

SF State formed the **Equity Programs & Compliance Leadership Team** (Leadership Team) to provide consultation on emerging issues, including how Title IX and DHR efforts can be best disseminated and implemented across campus.

The Leadership Team's charge is to ensure that we continually examine, review, and advise around issues related to campus policies and climate so that we don't just operate under a complaint-driven system, but so that we are incident responsive and can reduce the likelihood of discrimination, harassment, and retaliation from occurring in the first place. In the effort of promoting institutional inclusion and equity, there will be an emphasis in the 2018-19 Academic Year on responding to the findings generated by the campus climate survey.

President's Advisory Board on Gender Equity & Title IX

SF State formed a **President's Advisory Board on Gender Equity & Title IX** consisting of faculty, students, and campus officials to identify strategies for developing plans and strategies to promote a campus environment free of gender-based discrimination and to support the primary prevention of sexual violence. By convening one entity comprised of personnel and units with responsibility for prevention and intervention efforts as it relates to sexual harassment, sexual violence and gender equity, we ensure greater consistency and coordination, which in turn facilitates effective and timely compliance with applicable CSU Executive Orders, regulatory requirements, governmental mandates. It also maximizes the likelihood that we operate from a shared vision and purpose as it relates to supporting student learning and fulfilling SF State's academic mission through these endeavors.

Regrettably, the President's Advisory Board on Gender Equity & Title IX, did not receive as much focused attention during 2017-18 as they did in prior years, but the intention is to revitalize this entity in 2018-19 with new membership and refined missions. Proposed issues for the 2018-19 Academic Year include:

1. Pregnancy and Parenting in School and the Workplace
2. Gender Equity in Pay, Promotion and Hiring
3. Free Speech versus Harassment

OMBUDS OFFICE

In 2016, Equity Programs and Compliance proposed a new position, **Dean of Equity Initiatives**, based on assessment of needs. The Dean of Equity Initiatives position is 60% assigned to be the Senior Deputy Title IX Coordinator/DHR Administrator for Employees and Third Parties, and as such they manage the case load of all Executive Order 1096 Revised complaints filed at SF State.

The Dean of Equity Initiatives is also 30% assigned as the Employee **Ombudsperson** at SF State. Following the Code of Ethics established by the International Ombudsman Association, they are independent in structure, designated as neutral or multi-partial, holds all communication with employees in confidence, disclosing only with permission, and does not participate in formal adjudicative or administrative procedures related to the concerns brought to their attention. Activities for the 2017-18 academic year included consultations with employees (total of 76), facilitations/mediations of conflicts, conflict resolution and mediation trainings, and consultations with departments.

Although a more thorough report is available upon request, in summary the visitor statistics suggest that more than 40% of all visitor concerns were related to bullying, about 13% of the concerns brought from visitors were related to fair treatment in the workplace, and about 10% of the concerns brought from visitors were related specifically to the management of faculty members. In response to these discoveries, the Anti-Bullying Workgroup was convened by the Ombudsperson in January 2018 and continues to work to address bullying on campus, a collaborative team has begun work addressing equity in hiring practices across employment categories, and the Ombudsperson participates as a member of the Campus Climate Assessment Project Steering Committee, which is working toward measuring and documenting the SF State campus climate to inform program planning, policy development and priority setting.

TRAINING, PREVENTION & OUTREACH

SF State has developed targeted training, prevention, and education efforts to comply with federal and CSU policy as well to increase awareness and improve campus climate around topics of gender equity and sexual misconduct/sexual harassment.

While Title IX/DHR trainings facilitated by the Equity Programs & Compliance Team incorporated elements of education and prevention, they focused primarily on policy and procedure. Trainings are usually time-limited in nature and are designed to assist the target audience with understanding the various policies and procedures of the CSU, as well as components to ensure compliance with state regulations and federal legislation. The central aim of training is to increase awareness surrounding campus resources to respond to incidents of sexual harassment/sexual misconduct, as well as to encourage timely reporting of Title IX-related incidents in compliance with applicable policies. Additional goals of training include helping to promote a campus climate that is more supportive and compassionate to survivors of sexual misconduct/sexual harassment. In line with what the research has shown, an increase in the amount of trainings conducted over the past three years has resulted in increased reporting and inquiries related to sexual misconduct and sexual harassment.

Past training and workshop session presentations are publicly accessible via the SFSU Title IX website: http://titleix.sfsu.edu/Materials. Outreach and awareness efforts also include sending Gender Equity & Title IX/VAWA notices to the campus at the beginning of the Fall semester. This notice asks for the campus's assistance and support with cultivating a working and learning environment reflective of SF State's core value of social justice, as well as provides links to available on and off campus resources and contact information of Equity Programs and Compliance team members. The notices can be found here: https://titleix.sfsu.edu/content/mandated-notices.

SF State provides online training on sexual misconduct as well as SF State resources for all first-time incoming students through Campus Clarity, per CSU policy. Students are informed of the consequences should they fail to complete the training by the deadline, which includes a Campus Clarity Hold being placed on their record until such time that the training is completed, resulting in high completion rates campus wide. Refresher trainings are provided to all returning students; training is highly encouraged, but not required by law or policy. More information about Campus Clarity at SF State can be found here: https://wellness.sfsu.edu/campus-clarity.

Prevention includes those programs, activities and strategies, sustained over time, that are designed to gradually shift attitudes, increase knowledge, and change behavior, thereby contributing to a demonstrable reduction in the incidence and prevalence of sexual misconduct on and around campus. It encompasses both efforts to target individuals as well as to address systemic issues, community norms, and institutional culture. The primary aim of prevention is to stop violence from happening in the first place.

In an effort to integrate prevention programming into Title IX/DHR trainings for student groups, Equity Programs and Compliance has begun a collaborative training restructuring with Health Promotion & Wellness. In the coming year, the Title IX/DHR training sessions that Equity Programs and Compliance has consistently facilitated with student groups including Residential Life paraprofessional staff, student athletes, and members of fraternities and sororities, will shift towards a workshop format where sexual violence prevention and education are central and policy information is complimentary.

During Academic Year 2017-2018, Equity Programs and Compliance facilitated the following Title IX/DHR training sessions in the campus community. Any organized group of students, staff, faculty, or administrators may request a Title IX/DHR training or Sexual Violence Prevention workshop by filling out a request form on the Title IX Website: https://titleix.sfsu.edu/Power-Of-One.

Fall 2017
Residential Life Student Staff
Residential Life Conduct Board
Associated Students Board of Directors
Student Resource Center for College of Health & Social Sciences
Fraternities and Sororities
Student Health Services Staff
Student Athletes
Academic Senate

Spring 2018
Office of International Programs
MPPs (SFSU Administrators)
Residential Life Student Staff
Athletics Staff
Department Chairs and Directors
Residential Life Community Assistants

Awareness and Outreach Activities

During its inaugural year, the Health Promotion & Wellness (HP&W) team worked with the campus community to reduce and prevent the incidence and prevalence of sexual violence via environmental/ecological/social change strategies and through developmentally appropriate, culturally relevant curriculum targeted at various student communities. HP&W conducts workshops and seminars, and provides training to volunteers who work with other students, faculty, and staff to assist in creating a campus environment that reinforces healthy lifestyles.

The SAFE Place

For the past 28 years, The SAFE Place has been a resource for SF State students, staff, and faculty. Throughout the calendar year, The SAFE Place provides trauma informed services for survivors of sexual misconduct who are registered students or currently affiliated staff/faculty at SF State. All services through The SAFE Place are confidential and free of charge. After experiencing a year of instability and transition, The SAFE Place – one of the longest-standing confidential victim advocacy centers in the CSU – has appointed a new Manager, Stacy Peterson, starting August 2018, who we anticipate will bring renewed commitment and collaboration to the function.

Direct services include supporting Survivors dealing with any past or recent incidents of sexual misconduct including; sexual assault, domestic/dating violence, stalking and sexual harassment. The SAFE Place provides crisis intervention, brief counseling support (6-10 sessions) and advocacy for Survivors. Direct support can include; assisting and advising students through the reporting process with UPD, or with San Francisco Police Department if the incident occurs off campus; supporting students through the forensic sexual assault exam process if needed; supporting students through a Title IX investigation as needed; and, working collaboratively with San Francisco Women Against Rape (SFWAR) to ensure that students have access to evening and weekend support through the SFWAR 24-hour hotline (415) 647-7273.

In addition to direct service support, The SAFE Place provides several campus wide resources. SAFE provides on and off campus referrals and resources for the campus community relating to various sexual violence topics. SAFE provides ongoing consultation for the campus community around sexual misconduct issues and concerns, and staff are also available throughout the academic year to provide informational presentations on services provided by The SAFE Place.

REPORTED INCIDENTS IN FISCAL YEAR 2017-2018

At SF State the roles of Title IX Coordinator and Discrimination, Harassment, and Retaliation (DHR) Administrator are assigned to the same individual, resulting in the Equity Programs and Compliance Office receiving and addressing reports of sexual misconduct, and discrimination, harassment, and retaliation. Except as noted by policy, SF State employees who have reason to know of allegations that may violate Executive Order 1095, 1096, or 1097, cannot agree to maintain a victim's confidentiality, and are required to elevate potential concerning events to the Title IX and DHR Administrator. Employees are also encouraged to immediately and directly refer victims to the appropriate campus resources. Employees are not expected to and are discouraged from conducting a preliminary evaluation of whether allegations violate University policy. Instead, employees are expected to elevate concerns to the Title IX and DHR Administrator so steps can be taken to determine whether the alleged behavior could be considered prohibited conduct, stop the alleged conduct, investigate if appropriate, and remedy the effects of the conduct.

As a result of SF State's administrative structure, training efforts, and employees adhering to their institutional responsibilities as mandated reporters, a wide array of potential concerns are elevated to the Title IX and DHR Administrator. Potential concerns may involve allegations of sexual misconduct; discrimination, harassment, or retaliation; and, matters that do not fall within the scope of EO 1095 that are ultimately resolved under other University policies and procedures. For example, reports may involve allegations of isolated incidents of unprofessional behavior unrelated to the complainant's protected characteristics or questions about the existence, content, and application of department policies.

While some reports are pursued through a formal investigation process, some reports may ultimately be resolved without one for a variety of reasons. Cases may not be investigated due to the allegations not on their face suggesting a violation of University policy, interim measures having successfully addressed the concern, and the complainant not wishing to proceed with an investigation to name a few. Irrespective of whether the report is deemed within the scope of EO 1095 or is addressed with or without an investigation, reports require a coordinated response including but not limited to conducting an initial inquiry, providing advocacy services and support, referring to and following the appropriate administrative process, and providing relief and resolution.

Executive Order 1095 requires California State Universities to publish reports on Sexual Misconduct[2] incidents annually on October 1st, for the prior fiscal year, without disclosing any information that would reveal the identities of the parties involved.

[2] Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law. Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. When based on Gender, Domestic Violence or Stalking also constitute Sexual Misconduct.

Sexual Misconduct, Dating or Domestic Violence, and Stalking Reports

	2017-	2016-17	2015-16
The total number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received.	117	83	79
The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which a Student is the Respondent.	44	25	24
The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which an Employee is the Respondent.	2	0	3
The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which a Third Party is the Respondent.[3]		58	52
The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports resolved without investigation, including a description of the resolution and/or reason for no investigation.[4]	105	77	72
The total number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports investigated.[5]	12	6	7
The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking investigations in which the evidence was found insufficient to hold the Respondent responsible.	1	2	2
The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking investigations in which the Respondent was held responsible, including a description of the final sanction.[6]	2	4	5

Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

[3] In some cases the identity of the Respondent is unknown to the complainant or the complainant did not disclose the identity of the Respondent. Information on third party respondents is not required per Executive Order 1095 (June 23, 2015).

[4] Investigations were not completed in cases where the Complainant did not pursue an investigation, and the use of interim remedies resolved the matter to the Complainant's satisfaction.

[5] Investigations may commence in one fiscal year and be completed in the following fiscal year. Reports are resolved once an outcome is considered final. If a final outcome has not been determined before October 1st, the report is considered pending, and not counted per the Executive Order Annual Report requirements. Pending reports that are resolved during the next fiscal year are included in the following Annual Report's statistics.

[6] Case 1: 1 year suspension, 50 hours of community service, 4-6 counseling sessions, 5 page reflection paper; Case 2: 1 year suspension, 50 hours of community service, 5 counseling sessions, 25 slide presentation on informed consent

Discrimination, Harassment, and Retaliation Reports for FY 2017-2018

California State University system-wide policy ***does not*** require SF State to report the following discrimination, harassment, and retaliation (DHR) statistics annually on October 1st, for the prior fiscal year. In the interests of transparency and to educate the campus community, we are providing this information on DHR incidents. These reports are in addition to the reports received on the basis of sexual misconduct.

	2017-	**2016-17**	**2015-16**
The total number of DHR reports received.	115	51	94
The number of DHR reports received in wch a Student is the Respondent.	20	10	23
The number of DHR reports received in whh an Employee is the Respondent.	80	29	52
The number of DHR reports received in whh a Third Party is the Respondent.	7	7	19
The number of DHR reports received in wch the Respondent is Unknown.	6	5	0
The number of DHR reports investigated.	27[7]		9
The number of DHR reports resolved without investigation.	88	47	85

[7] In some instances, there are multiple complaints brought by multiple Complainants against the same Respondent involving discrete incidents. This may result in multiple reports being investigated.

INVESTIGATOR REFLECTIONS

Implicit Bias and Microaggressions

A wealth of scholarly research indicated that even well-meaning persons with no desire to exhibit racial animus nonetheless act under the influence of unconscious biases that systemically impact others on the basis of race.[8] Implicit bias and microaggressions may impact how a complainant, respondent, witness, and even the investigator approaches the investigation. Whether conscious or unconscious, race-related bias may influence the willingness for a complainant, or a witness to come forward out of fear of bias from the investigation process. Alternately, an investigator also may be influenced by their perceptions of a complainant, respondent based on any given protected class.

Allegations of implicit bias[9] and microaggressions[10] toward people of color have become emerging issues when investigating discrimination complaints. For instance, implicit bias may prompt individuals to make unfounded judgments about a person's qualifications for a given job before giving fair consideration to the person's capacity and ability to perform the job. Microaggressions are defined as hidden demeaning messages that often lie outside the level of conscious awareness of the Respondents.[11]

Unlike explicit bias, where the individual is aware of the prejudices that they have toward individuals of a particular race, implicit bias and microaggressions can be engaged in by individuals who are unaware of the fact that they are stereotyping an individual (or groups of individuals) based on their identity. Complaints of implicit bias and microaggressions may be difficult to investigate since the individuals who are engaging in the conduct may not even be aware of their prejudicial assumptions, or worse, consider themselves as "victims" when allegations of discrimination are made against them. Furthermore, this lack of awareness of one's subjective feelings toward a particular group of persons will often not rise to the level to be consider a violation of discrimination under EO 1096 or 1097 given the lack of a specific intent. Nevertheless, microaggressions are dangerous because, despite being invisible to the perpetrator, they take a toll on the recipient's psyche.[12]

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[8] Trachtenberg, B. (2017). How university Title IX enforcement and other discipline processes (probably) discriminate against minority students. *Nev. LJ*, *18*, 107.

[9] Implicit bias is the unconscious attribution of particular qualities to an individual based on the typical stereotypes of the individual's race or ethnicity.

[10] Microaggression is a small act of non-physical aggression toward individual(s) in a marginalized group, whether intentional or unintentional, which communicate hostile, derogatory, or negative messages about the individual(s) race or ethnicity.

[11] Microaggressions are hidden demeaning messages that often lie outside of the level of conscious awareness of the perpetrators. Sue, D. W. (2010). Microaggressions and Marginality: Manifestation, dynamics and impact. Hoboken, NJ: John Wiley & Sons.

[12] McCabe, J. (2009). Racial and gender microaggressions on a predominantly white campus: Experiences of Black, Latina/o and White undergraduates. *Gender & Class*, 16 (1), 133-151.

Implicit bias and microaggressions diminish and stigmatize people or color. Furthermore, it can result in a hefty "emotional tax," that is, a psychological burden placed on men and women of color as a result of marginalized treatment. This can result in people of color having high instances of being "on guard" in order to protect themselves against racial biases in the workplace. Furthermore, not only do people of color suffer when they are marginalized and stereotyped on an unconscious level, implicit bias and microaggressions may contribute to creating a hostile work environment.

Stalking

Stalking typically involves unwanted contact whether through communication devices or in-person contact. Victims of stalking frequently experience psychological and physiological distress.[13] Statistically, young people are more susceptible to stalking. It is reported by the Centers for Disease Control that more than 50% of young people have experienced some form of stalking.[14]

The Executive Order defines Stalking as "engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the safety of self or others' safety or to suffer Substantial Emotional Distress." Unlike Discrimination under the Executive Order that looks to a Protected Status of an individual, Stalking, per the Executive is based on *Course of Conduct*. Per the Executive Order, *Course of Conduct* is defined as two or more acts directly, indirectly, or through a third party, by any action, method, device or means to follow, monitor, observe, surveil, threaten or communicate with a person. *Reasonable Person* is also a nuanced element under the Executive Order because it looks to individuals who are similarly situated with the Complainant. For instances, when students report stalking, we would look to the peers of that Complainant. For example, if a female Complainant reports stalking by a male student, a *Reasonable Person* to compare the Complainant's reaction to would be another female student of like qualities.

The question then becomes would this neutral female student react the same way as the Complainant student? In addition, it must be clear that it only takes two events to fall within the parameters of stalking. Cyberstalking, viewing other people's social media accounts, may not yet be considered as creating *substantial emotional distress* for purposes of the Executive Order when it does not ignite the same fears that in-person stalking does. Although in today's world our lives are deeply woven with a social media imprint, the lone act of viewing others social media accounts or following their internet presence by itself may not result in a policy violation.

[13] https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf
[14] https://www.safehorizon.org/get-informed/stalking-statistics-facts/#description/

OBSERVATIONS & RECOMMENDATIONS

As stated earlier, Equity Programs & Compliance is committed to being both incident responsive and complaint driven. Further, the team believes that lessons learned and observations made from our compliance-related efforts can help us understand what improvements we can make as an institution to promote equity and inclusion, improve campus climate, as well as reduce the incidence/prevalence of discrimination, harassment, retaliation, and Title IX-related complaints. Based on our work over the last year or so, we have identified several recommended areas for policy, process and procedural improvement that we believe will benefit both students and employees.

Develop and implement policies and procedures to address bullying behaviors. Of the complaints Equity Programs & Compliance receives each year, many of them do not fall under the policy rubric of EO 1095/1096/1097 based on our own definitions of prohibited behavior. However, this does not mean that the reported actions and communications are not necessarily problematic or concerning – and therefore warrant intervention and interruption. We found that many of the incidents reported to us potentially constitute abusive, unprofessional, and/or bullying behavior. Yet, there are currently know university policies and procedures to directly and effectively respond to these kinds of complaints. The User-Friendly Principles, Practice Directive P530C, found at https://hr.sfsu.edu/Labor_Compliance_ProfDev/emp_relations/hr_Directives/P530C, have at times been invoked, but the document is outdated (it was developed in 1998 and has not been revised since) and is not readily actionable to translate into procedures.

At present, the Dean of Equity Initiatives is facilitating an ad hoc work group on anti-bullying. Appointed in Summer 2017, the work group is comprised of representatives from faculty, staff and students (inclusive of union and shared governance representatives), in partnership with Office of Human Resources and with Faculty Affairs, to develop a set of recommended policies and procedures that can be used to ameliorate bullying behavior. The goal is to present a draft University Executive Directive to the President for his review and endorsement.

Provide more orientation, training and ongoing technical assistance to MPPs and other responsible administrators, including members of the President's Cabinet. During the course of either inquiring into or investigating complaints that we receive, the Equity Programs & Compliance team frequently notes that many situations could have been reduced in severity or perhaps prevented altogether if there had been earlier and effective involvement and/or intervention by the responsible administrator in the relevant unit(s). In many cases, problematic, disruptive and/or unacceptable behavior had been taking place for a long time, with broad knowledge by administrators, faculty and/or staff in the affected departments/offices. Yet, there was no attempt to interrupt the observable behaviors or to engage in culture change in the unit

that supports both performance accountability and talent management. We recognize that administrators not only have a fiduciary responsibility to intervene proactively and appropriate when "red flags" are noted, they also are positioned to promote and sustain positive cultural change in the unit or organization in a manner that ultimately can contribute to greater workplace productivity, innovation and feelings of inclusion for all.

However, administrators cannot do this alone. In consulting with administrators, we learned that many do not feel they have the capacity or skills to intervene as necessary. Further, many reported perceived negative experiences with the relevant union or with Office of Human Resources when they had made attempts in the past to correct inappropriate behaviors; these negatives experiences included feeling not supported by their supervisors and/or colleagues. Leadership in the Division of Human Resources has turned over in recent years, so there has been a notable philosophical change among the new team members. There is a shared commitment to ensuring that our campus is free of discrimination, harassment, and retaliation, and HR professionals can be a powerful partner in those efforts. Yet, Human Resources alone cannot be responsible for the efforts to resolving "bad behavior."

New and established administrators need training/development on a variety of topics, including but not limited to: (1) developing effective position descriptions, including identification of appropriate minimum/desired qualifications; (2) as hiring authorities, overseeing inclusive recruitment, search, and selection processes that reflect best practices, reduce the impact of unconscious bias, and minimize resulting complaints; (3) providing effective feedback and coaching for performance improvement, accounting for a diverse range of employee personalities and preferences, as well as cultural perspectives; (4) compensation and principles of equity and fairness (including requirements of the CA Fair Pay Act); (5) managing/mediating conflict; (6) having difficult conversations; (7) recognizing and interrupting potentially problematic behaviors; (8) effective documentation practices; (9) defining and diffusing retaliatory behavior; and (10) strategies for promoting inclusive, equitable workplace environments that encourage employee engagement and innovation (see some of the relevant scholarship from Catalyst at https://www.catalyst.org/knowledge/inclusive-leadership-view-six-countries).

Provide more development and consultation opportunities on classroom management, especially about facilitating difficult conversations about identity, intersectionality, culture and climate. One of the most common reasons for filing a complaint with Equity Programs & Compliance involves students' experiences of being triggered in the classroom, either by things said by the faculty member or by comments made by fellow students in the course – both online and/or in the live classroom setting. After course evaluations of teaching are submitted at the end of each term, EP&C typically receives a number of additional complaints filed by department chairs and others who receive the evaluation summaries and want to share what students have reported in this regard. Many of these comments constitute micro-aggressions or forms of

stereotype threat or unconscious bias; it often makes sense why students report feeling alienated, disrespected, marginalized, and/or traumatized in these situations.

However, many of these incidents do not rise to the definition of "discrimination" or "harassment" as defined by EO 1097 and therefore are not actionable under that policy. Our protocol is to provide appropriate referrals for the student complainants to various resources on campus and document the incident. Whenever recurring problems are identified, the team will engage the department chair and College Dean and/or Associate Dean about possibly providing coaching or mentoring to improve teaching and learning – or even take corrective action as warranted.

Given our commitment as a University to provide an inclusive, equitable learning environment, what our students report to us suggest that we can take a more proactive approach to improving the teaching and learning capacities of our faculty, both tenure-track and lecturers. Similarly, we want to ensure that interactions that students have with staff while seeking services, participating in programs, etc., are also welcoming and respectful of various identities and their intersection. We know that many efforts are already underway across campus to provide communities of learning for faculty to explore issues of pedagogy and classroom management. The Center for Equity & Excellence in Teaching & Learning (CEETL) is definitely a coordinating point for many of these efforts. The recently established Division of Equity & Community Inclusion is also a valuable resource for development and training in this regard.

We want to reiterate the importance of making a strong commitment to ensuring that student interactions both in- and out-of-the-classroom reflect our self-stated strategic values of Community and Equity. Increasing access to and encouraging broader participation by all faculty/staff to training and development opportunities to align intent with impact when it comes to helping our students feel more included should be a priority. As a caution, we do need to ensure that efforts to increase the inclusiveness of the classroom climate and learning environment does not come at the expense of freedom of expression – which is also an important value to the academy. As such, we also want to build students' resiliency and capacity to take into account views that are different from their own – that fearless debate and dialogue about important matters in which we must critically reflect on opinions and positions that challenge our own is an essential part of a liberal education for the 21st century. As one example, this educational imperative has manifested itself very specifically in our efforts to grapple with the Israeli-Palestinian conflict within our own campus community, interlaced with concerns related to anti-Semitism and Islamophobia.

Implement a Behavioral Intervention Team (BIT) for faculty/staff. The establishment of Behavioral Intervention Teams is an emerging field of "best practices" in higher education. San Francisco State has an active BIT to respond to students who are in distress or disruptive. At present, there is no such comparable mechanism for assisting or supporting faculty/staff who are similarly situated. As a result, faculty/staff who are in need of intervention, oftentimes because of

discrimination/harassment they perceive experiencing, are left with no clear office to which they can turn for help. While the Ombuds can fill some of this gap, they cannot fill all of it. Further, in some cases, EO 1096-related cases will impact an entire unit or department, creating low morale, interpersonal conflict and other climate-related challenges. Those team members need caring, compassionate crisis intervention and an opportunity to "make meaning" about what is happening.

Still another area of need is when faculty/staff experience mental-health related difficulties; similar to students, these can result in stress for the individual employee, as well as disruption to that employees work team. Again, at present, there is no clear office responsible for intervening, and employees in need of advocacy or assistance are often continually referred to the "next office" to respond. Equity Programs & Compliance can provide a certain degree of advocacy, assistance and support in these situations. But this is not the Office's primary mission or purpose. There needs to be a more strategic and shared solution implemented to support our faculty and staff.

Note that an initial draft proposal has been developed by a small work group comprised of professionals from Equity Programs & Compliance, Office of Human Resources, and Office of Faculty Affairs. The proposal has also undergone some initial consultation and vetting with stakeholder groups. We encourage the University to continue consideration of this proposal and implement a BIT for faculty/staff in the near future.

Adopt more interactive training through the use of multimedia formats. In compliance with CSU Executive Order 1095, all incoming new students undergo mandatory training about issues related to sexual misconducting, dating/domestic violence, stalking and other matters related to Title IX and DHR. All continuing students must also undergo mandatory training on an annual basis. Finally, all faculty and staff must complete mandatory training each year (currently via SkillPort). All of these trainings are provided via online technology. Then, a variety of constituency-based training is provided "live" by a team member from Equity Programs & Compliance, including but not limited to department chairs, MPPs, Academic Senate, and Associated Students.

We receive consistent feedback that while the online training does include helpful info, the delivery method is dry, unengaging and frankly not the best modality to provide information that is complex and sometimes nuanced in nature. Further, audience members can ask questions and receive clarifying comments during "live" training that enhances understanding about the relevant policy, procedural and practical issues associated with EO 1095, 1096 and 1097 compliance.

We frequently get requests to videotape and disseminate our "live" training sessions to allow for broader access and consumption. We appreciate that many faculty, staff and administrators want to get more info, and we would like to increase access to this info in a manner that is engaging and useful. We are hoping that Academic Technology, University Communications, and

other potential campus partners will be willing to work with Equity Programs & Compliance to produce a series of training videos that will supplement the online training, and be made widely available to the campus community.

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