



SAN DIEGO COMMUNITY COLLEGE DISTRICT

CITY COLLEGE • MESA COLLEGE • MIRAMAR COLLEGE • CONTINUING EDUCATION

TITLE IX COMPLIANCE OFFICE

ANNUAL REPORT

2018-2019 ACADEMIC YEAR

Prepared by the District Title IX Coordinator

August 9, 2019

This second annual report provides information about the activities and initiatives undertaken by the Title IX Compliance Office (the “Title IX Office”) for the San Diego Community College District (the “District”). The Title IX Office’s mission is to coordinate the District’s compliance with Title IX of the Educational Amendments of 1972 and the Violence Against Women Act through targeted prevention activities, the promotion of education, and comprehensive responses to relevant notifications. The initiation of this report, to be prepared annually by the District’s Title IX Coordinator, is a key component of the District’s commitment to education, outreach, and transparency in its activities.

Notifications to the Title IX Office

The Title IX Office is responsible for responding to complaints of sex- and gender-based discrimination. These include allegations of sexual harassment, sexual violence, domestic violence, dating violence, and stalking. Title IX protects all members of the District community, including students, staff, and visitors, and the Title IX Office responds to notifications involving all of these groups.

Members of the District community may report Title IX information directly to the Title IX Coordinator by phone, email, or in-person, or through the District’s [online complaint form](#). Each institution’s Title IX Deputy can also assist in reporting Title IX information. Contact information for these individuals is the following:

Title IX Coordinator

Chris May	619-388-6805
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Title IX Investigator

Leslee Morris	619-388-6809
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Title IX Deputies

City College

Marciano Perez	619-388-3498
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Mesa College

Claudia Perkins	619-388-2678
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Miramar College

Cheryl Barnard	619-388-7432
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Continuing Education

Stephanie Crosby	619-388-4950
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District Office and Service Center

Aimee Gallagher 619-388-6880

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Data Concerning the Resolution to Title IX Notifications During the 2018 – 2019 Academic Year

After an initial inquiry and information gathering process, the Title IX Office addresses Title IX notification in two manners: (1) through formal investigations; and (2) through other informal action. Formal investigations follow the procedures of the AP 3100.2, the Student Disciplinary Procedure, or the applicable collective bargaining agreement, and result in formal determinations regarding a respondent's responsibility for having violated a District Policy or Procedure. In the event of a finding of responsibility, disciplinary action is generally imposed. However, for a variety of reasons detailed below, formal investigations are not appropriate mechanisms to address many Title IX notifications. In these alternative situations, the Title IX Office may take any of a variety of other actions, but will not render a formal finding of responsibility or impose disciplinary action. In total, the Title IX Office responded to 158 notifications, both formal and informal as given in the following tables.

Title IX Notifications Involving Formal Investigations

The following chart presents data concerning the resolution of formal Title IX Complaints adjudicated by the Title IX Office during the 2018-2019 academic year. Note that the data contained in this chart does not align with that provided in the District's annual security report, Safe and Sound, published in compliance with the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), which addresses a different time period, uses slightly different definitions of applicable offenses, and includes offenses with geographic jurisdictional limitations not applicable here.¹ Please note that this data includes only incidents reported during the 2018-2019 academic year, and does not include incidents from prior years for which resolution may have still been pending as of August 1, 2018.

¹ The most recent Safe and Sound publication is always available via [this link](#).

<u>Total Formal Investigations</u>	6
Findings of responsibility	0
Findings of non-responsibility	2
Average duration of investigation	N/A (sample size)
Matters in which respondent admitted responsibility	0
Matters otherwise resolved prior to completion of investigation	4*

*For example, by virtue disciplinary action on other bases having been imposed prior to the completion of Title IX's investigation.

These 2018-2019 numbers represent slightly fewer formal investigations than have been conducted in prior years. The sample size is sufficiently small that the most likely explanation for the variance is random fluctuation. It is also noteworthy that during this period there were no findings of responsibility; this statistic is slightly misleading, however, in that all four of the matters that were resolved prior to the completion of an investigation represented instances in which individuals either resigned, retired, or were terminated prior to the completion of a finding, which may reflect an increasing ability of the Title IX Office to coordinate its investigations with other District jurisdictions.

Title IX Notifications Resolved Through Other Means

Responses to the majority of notifications received by the Title IX Office do not involve a formal investigation by the Title IX Office:

- In many cases (e.g., the vast majority of notifications involving intimate partner violence), the formal investigation process is inapplicable to the matter because the responding party is not a member of the District community and therefore is not subject to District administrative action.
- In other cases, the resolution desired by the reporting party, when deemed appropriate by the Title IX Office, may not require the imposition of disciplinary action (e.g., in a case where a complainant alleges a respondent used inappropriate language, the complainant may desire only for the matter to be addressed verbally with the respondent).
- In some cases, the reporting individual may prefer that the District not initiate a formal investigation due to concerns about the loss of confidentiality that would, by necessity, result. Unless doing so is likely to result in an escalated safety risk to the District community as a whole, the Title IX Office will abide by such a request.

- Other cases may not be appropriate for resolutions via a formal investigation due to other rationales that may apply on a case-by-case basis.

In all cases resolved through means other than a formal investigation, the District provides the victim with written information about their rights, the District's responsibilities and policies, and of available District and community resources. At the victim's request, the Title IX Office will assist the victim in securing other appropriate accommodations (e.g., extended time on assignments, late course drops, etc.). Examples of resolutions that may be achieved via this more informal process include:

- The use of No Contact Orders;
- Clarifications with responding students regarding behavioral expectations associated with the District's Policies and Procedures;
- Referral to the District's victim advocate; and
- Academic or other accommodations addressed solely toward the reporting student.

<u>Total Notifications Not Involving a Formal Investigation</u>	152
Matters resolved informally	37
Matters involving a non-District-affiliated responding party or unknown responding party	68
Matters in which a reporting party declined to participate or otherwise did not wish for a formal investigation	36
Other	11*

*For example, incidents that were referred to other District jurisdictions.

These 2018-2019 numbers again closely mirror the 2017-2018 numbers. There was an increase in the total number of notifications not involving a formal investigation compared to 2017-2018, but the number is only slightly higher than was the number in 2016-2017. The proportional breakdown in the manner of informal resolution did not substantively change relative to 2017-2018.

Changes to Policies and Procedures

In November 2018 the U.S. Department of Education issued a Notice of Proposed Rulemaking ("NPRM") proposing significant, mandatory changes to institutions' policies, procedures, and processes responding to reports of sex-based discrimination.

These proposed changes relate to issues including, but not limited to: jurisdiction; cross-examination; notice; legal representation; the allocation of decision-making authority; burden; opportunity to review information; and the definition of harassment. As of the date of this report a Final Rule has not been released and it is unknown when, or if, such a Final Rule will be forthcoming and, if so, what changes it may include or its effective date.

Also during the 2018-2019 academic year, courts in the State of California issued multiple, unexpected rulings against institutions of higher education in Title IX matters finding that their processes did not satisfy a requirement of fundamental fairness. These rulings suggest that institutions must provide increased opportunities for cross-examination, a more robust hearing process, and a greater separation of decision-making authority than had been previously required under any accepted interpretation of law or guidance. The holdings of several of these rulings have been codified in a proposed bill before the California legislature.

In response to these legal developments, during the 2018-2019 academic year the Title IX Office, in consultation with Student Services administrators and District legal counsel, prepared draft revisions to the District's Student Disciplinary Procedure, AP 3100.2, as well as the Student Code of Conduct, BP 3100, to best ensure institutional compliance. These draft revisions have not been implemented to date, as both the NPRM and the California bill have yet to be implemented. Even if such implementation does occur, which is not at all certain, there is a significant likelihood that it will be in modified form requiring additional alterations to the Title IX Office's draft revisions.

Next Steps:

Monitor ongoing evolution of state and federal law and guidance and update/implement policy revisions as appropriate.

While potential changes are pending, conduct all investigations with appropriate regard for Due Process.

Training, Education, and Communications

A key expectation in Title IX compliance is ongoing training activities. During 2018-2019, the Title IX Office engaged in many of the same training activities as during 2017-2018, including:

- In-person training for all coaches at each District College on matters relating to Title IX and athletics;

- Presentation to the all-counselors workshop on Title IX matters frequently arising in counseling situations;
- Training for the PEER educators at City College related to Title IX matters specific to student-employees and clarifying reporting structures;
- Training for Mesa College student services employees related to specific Title IX matters frequently arising in the student services context; and
- Training for Miramar mental health counseling employees related to Title IX reports.

Additionally, as during 2017-2018, the District used EverFi's Haven: Understanding Sexual Assault online training module as its primary training tool, targeting key groups of students to complete the training annually, including student-athletes, student leaders, student-employees, and all students engaging in overnight travel. During the 2018-2019 year the Title IX Office successfully advocated for restored access to the Haven faculty module without additional cost, as it better matches District training needs than do many of Everfi's other supplemental courses.

In association with the District's participation in the U.S. Department of Justice's Campus Grant program ("DOJ Grant") and its collaboration with the Center for Community Solutions ("CCS"), the Title IX Office successfully piloted a bystander intervention training program for students enrolled in Personal Growth courses at each District College, training in excess of 200 students in bystander intervention strategies. At the same time, and in collaboration with CCS, the Title IX Office continued to refine its bystander curriculum for eventual use as a mandatory presentation within each District Personal Growth section. As of this writing, the curriculum is pending finalization following receipt of DOJ approval.

Through its participation in the DOJ Grant, the District was also funded to again send a key group of employees from each College, the District Offices, and College Police to the final intensive out-of-town training conference coordinated by the Department of Justice and targeted at combating sexual assault, domestic violence, and stalking on College campuses (two prior such conferences occurred during the 2017-2018 year). This core team of employees has not only been instrumental in both supporting the training initiative concerning bystander intervention, but has also been the key forum through which the District's efforts to better coordinate and consolidate its ongoing prevention and other training and outreach activities at each of the Colleges. For example, it was through this core team that the Title IX Office was able to collaborate with CCS to provide coordinated events during Sexual Assault Awareness month at each District College.

The Title IX Office engaged in ongoing revision and improvement of the District's Title IX webpage, designed to better present all relevant information for any individual, student or employee, who might be seeking additional information regarding Title IX. These ongoing revisions and improvements were mirrored by edits to other District publications (e.g., Catalogs, class schedules, informational emails, etc.).

Next Steps:

Implement bystander intervention training program.

Further integrate and expand College training and outreach events through the DOJ Grant program.

Conduct athletic training events.

Continue updates of District publications as applicable.

SPEAK Program

During the 2018-2019 academic year the Title IX Office, in connection with the DOJ Grant, collaborated with CCS to begin consolidation of all training and outreach activities touching on sexual violence within a single program. As an initial step, the Title IX Office collaborated with CCS to sponsor an open contest among District students to develop a branding identity for the program akin to that of other institutions or organizations (e.g., Step Up, Green Dot). The Title IX Office identified one finalist from each College and submitted those finalists to a student vote.

The first grant, a one-time grant through San Diego County, provided funds for the District to receive the full-time services of a CCS sexual assault-domestic violence victim advocate who began providing services in September of 2017. The second grant was received from the U.S. Department of Justice, and it began funding the advocate following the expiration of the County grant in July 2018 and extends through October of 2020. The initial arrangement involving the advocate was that she would float between campuses, with defined resident hours at each campus but the ability to travel between campuses as needed. This arrangement was altered at the start of the Spring 2018 semester, as experience indicated that both student needs and opportunities for outreach did not well conform to the advocate's resident days at each campus. Moreover, it was found that the vast majority of the advocate's cases did not come through walk-ins (necessitating defined resident hours), but through referrals. The advocate has therefore been established in a permanent space at City College, but is available to travel to each College as needed.

Since arriving, the advocate has maintained a pace of approximately twenty enrolled students or employees as clients per semester. However, the advocate interacts with a significantly greater number of students (i.e., 2x – 3x the number of enrolled students) either directly or through outreach events providing them with counseling regarding their options, but not resulting in their enrollment. Anecdotally, the Title IX Office has heard only positive reports regarding the activities of the victim advocate and the effect of providing the services within the community. A particularly striking example involved arguably the “most severe” case adjudicated by the Title IX Office, in which the victim advocate assisted the complainant in reporting the matter to the police and provided her with critical support while the matter was brought through multiple criminal trials, resulting in the respondent’s eventual criminal conviction nearly a full year later.

Next Steps:

Successfully integrate the advocate’s presence into training and education events being developed (*see* Training, Education, and Communications section).

Lactation

During the 2018-2019 academic year the State of California passed legislation, effective January 2020, requiring institutions to provide appropriate space and adequate accommodations to students who need to express milk or breastfeed their child. With the cooperation of the District’s DSPS Office, the Title IX Office developed a process and associated guidance to implement the legal requirement. As part of this initiative, the Title IX Office developed reference documents that can be used at all District locations to assist faculty and staff, including DSPS counselors in providing students with the required accommodations.

Next Steps:

Monitor implementation and adjust procedures as is necessary based on experience.

Monitor statewide implementation or release of guidance to evaluate best practices as they develop in response to this new mandate.