



**Eastern Connecticut State University
Title IX Review**

June 2021

President Núñez:

In Spring 2021, Eastern Connecticut State University (“Eastern”) learned of community concerns regarding the University’s response to reports of sexual assault and sexual misconduct. You retained TNG to assist and support efforts to fully understand those concerns, to provide an external review of Title IX compliance at Eastern, and to provide a report to you reflecting our recommendations, based upon our review.

Title IX is a federal law that requires education institutions to respond promptly and effectively to reports of sexual misconduct that occur within the institution’s education program or activity. Sexual misconduct can take many forms, including sexual harassment, sexual assault, intimate partner violence, or stalking, along with other forms of sex- or gender-based misconduct and/or discrimination.

TNG began its review in April 2021. As part of the initial phase of the review, TNG established a web-based portal that invited anyone with concerns to share:

- General information or concerns about prior experiences when making a report to Eastern and/or raising concerns about the response provided by the University, and/or
- Specific information about a past incident involving concerning behavior by a member of the Eastern community.

Since being retained, TNG has interviewed University stakeholders, including current employees, students, and alumni. Members of the Eastern community contributed critical and valuable information to TNG through the use of the portal. We appreciate the cooperation and assistance we have received from various individuals within the Eastern community regarding our requests for information and our invitation for participation.

Methodology

In its external review, TNG thoroughly reviewed all information made available by Eastern, by participants’ contributions to the portal, as well as through subsequent interviews. The scope of the external review focused upon “student-facing” reports, meaning reports of discrimination or harassment that focused upon circumstances where a student was identified as the complainant or respondent. Information and materials provided and reviewed included:

- Submissions through TNG’s portal (14 total)
- Earlier submissions made through Eastern’s own portal in the weeks prior to this engagement (55 total)
- Anonymous stories compiled and provided by an interview participant (48 total)
- Interviews with 16 members of the Eastern community

- Recordkeeping and responses to reports that were made by students in 2020
- Recordkeeping and responses to reports made by students roughly spanning 2016-2019
- List of Demands submitted to Eastern by interested students and alumni in spring 2021
- Exhaustive review of the University's website
- 2020 Uniform Campus Crime and Fire Safety Reports (available on website)
- 2020 Clery Policy Statements (available on website)
- Two PowerPoints highlighting 2013 and 2020 climate survey results provided by the Title IX Coordinator

Although the scope of TNG's review did not encompass significant review of policies, which largely are the province of the system office, the mere exercise of conducting a Title IX review necessitates understanding the policies and procedures that apply and that inform and dictate a campus's response protocols. To that end, TNG conducted a high-level review of policies provided by Eastern in addition to other policies posted both on the University's website as well as the website maintained by the Connecticut State Colleges and Universities system office. Those policies and posted documents (in April 2021) included:

- Board of Regents Policy 4.11 Statement of Title IX Policy (dated July 20, 2020)
- Board of Regents Policy 4.3 on Consensual Relationships (dated October 20, 2016)
- Board of Regents Policy 5.2 Sexual Misconduct Reporting, Supportive Measures and Processes Policy (20-103) (dated July 29, 2020)
- Board of Regents Sexual Misconduct Reporting Support Services and Processes Policy (dated June 16, 2016)
- Board of Regents Policy on Sexual Misconduct Reporting, Support Services and Processes Policy (dated January 15, 2015)
- Board of Regents/CSCU Student Code of Conduct (July 29, 2020, version)
- Board of Regents/CSCU Student Code of Conduct (June 16, 2016, version)
- Board of Regents/CSCU Student Code of Conduct (January 15, 2015, version)
- Title IX Grievance Procedures (August 2020)
- CSCU Guide for Determining Relevance (August 14, 2020)
- Board of Regents Policy 5.6 Reporting Suspected Abuse or Neglect of a Child (dated January 10, 2015)
- Eastern Connecticut State University Policy on Discrimination and Sexual Harassment (dated October 6, 2016)
- Eastern Statement on Discrimination and Sexual Harassment (dated July 7, 2015)
- Office of Equity and Diversity – Interpersonal Violence and Domestic Violence: Campus Contacts and Reporting Procedures (dated February 27, 2017)
- List of individuals at Eastern who serve as support people for complainants
- List of individuals who are support people
- Discrimination and Discriminatory Harassment Complaint form (September 2014 version)
- Eastern Connecticut State University Policy and Procedures on Sexual Misconduct and Sexual Assault (dated March 27, 2012)

- Statement of Policy and Grievance Procedures on Discrimination and Sexual Harassment (dated “Revised 2020”)
- Sexual Assault Policy and Procedures (undated)
- Interpersonal Violence and Domestic Violence: Campus Contacts and Reporting Procedures (undated)
- Policy on Workplace Threats and Violence (undated)

Over the timespan of this review, TNG has engaged in conversations with Eastern officials to share our objective observations in a timely fashion. We are pleased to provide a summary of those observations below.

Observations

There is no question whatsoever that all the Eastern stakeholders with whom we met have a deep commitment to “getting it right” with respect to Title IX compliance and ensuring that the University’s systems, practices, and response mechanisms are coordinated to ensure a prompt and effective response to reports that come forward. Indeed, some staff members frequently demonstrated individualized efforts to “go above and beyond,” to provide support and assistance to students who made reports.

However, TNG found that the current Title IX Coordinator has not demonstrated sufficient leadership over and management of Eastern’s Title IX system. TNG determined that Eastern’s Title IX system has lacked the leadership, coordination, and coherence needed in order to effectively accomplish Title IX’s equity mandate. Although many other well-meaning staff, within and beyond Student Affairs, have been working to maintain Title IX response mechanisms, the resulting approach has often been ineffective for impacted students. While the creation of the Sexual Assault & Interpersonal Violence Response Team (SAIV-RT), stemming in part from the team-based approach required under Connecticut law, was intended to bring coherence and coordination, even that structure has resulted in substantial blurring of authority and responsibility, with the team’s leadership and mission in various states of transition over time. Some participants described the lack of leadership in Title IX as creating confusion about who was responsible for prevention and programming specifically.

In order to move forward more effectively, Eastern will need to rebuild trust with its student community. There are students who have had negative experiences making reports and participating in Title IX processes who have been very vocal about their experiences, thus impacting other students’ impressions and contributing to a lack of confidence in Title IX at the University. For example, some participants reported verbal responses that had the effect of seeming to be victim-blaming, such as an undue emphasis on personal safety precautions or the role of alcohol or other drugs. Others reported that interactions with staff involved in providing Title IX responses resulted in substantially objectionable experiences participating in Title IX processes. Separately, at some time periods prior to the appointment of the current Deputy Title IX Coordinator as the overseer of intake processes, some students reported hearing nothing in response after making a report themselves or

via a mandatory reporter. It is important to note that some participants reported positive experiences with the reporting process, the support that they received, and the University's response.

A common theme in portal and anonymous submissions is that students do not know who the Title IX Coordinator is, where the Title IX office is located, and do not know where or how to make a report of sexual misconduct. Although the current reporting mechanisms satisfy Title IX's basic requirements, TNG observed that the current Title IX website presence does not clearly indicate how to make a report or provide other critical information such as how to access other support resources on- and off-campus, what happens after making a report, the difference between a report and formal complaint, options to report to law enforcement, nor provide a high-level roadmap of the Title IX process. Like all institutions of higher education, Eastern has weathered several rounds of policy changes over the past decade in its applicable policies due to substantial changes in the laws and regulations, at both the federal and state level. Nevertheless, in working with Eastern staff, TNG had a very difficult time discerning the applicable policies in place at various points in time, including following the 2020 Title IX regulations, suggesting that there is some confusion about whether "old" policies should have been sunset or whether they should remain.

It was difficult for TNG to gain clarity about the mechanisms used by Eastern to conduct an appropriate initial assessment of all incoming Title IX reports to ensure that each report is responded to appropriately, consistent with the circumstances presented. Although Eastern's intake process has improved in the last year as described above, TNG could not discern an established mechanism, nor identified individual or process, to initiate an interim action or conduct the required violence risk assessment should an interim action be required. Additionally, there is no comprehensive mechanism to track cases following that assessment to ensure accountability for a prompt and thorough response. Participants shared experiences with investigations that were not prompt or thorough, and TNG also identified substantial delays through its review of existing records. TNG observed examples where an investigation should have included additional witness interviews or follow-up interviews with parties or witnesses who had already been interviewed. TNG observed that the existing reliance on a single person to staff the various roles required under Title IX, such as investigator, or hearing officer, may have placed too much pressure on those employees, who have other job responsibilities.

Goals for Title IX Compliance at Eastern

With these observations in mind, TNG identified the following overarching goals for the University as it moves forward with its efforts to bring new direction to its Title IX work:

- Identify new leadership for Title IX at Eastern, including dedicated leadership and management that is well-equipped to rebuild Title IX compliance and bring coherence to the University's efforts to prevent and respond to sexual harassment and other forms of sexual misconduct.
- Rebuild trust with students.

- Improve methods for members of the Eastern community to report incidents and allegations of sexual harassment.
- Provide a better-organized system to facilitate the Title IX Coordinator's work to make an initial assessment of all reports of sexual harassment, track cases as they move through the Title IX process, document the provision of interim and supportive measures, track investigations and hearings, and ensure proper recordkeeping of all efforts to respond.
- Communicate clearly to the Eastern community which policies apply to incidents of sexual harassment and sexual misconduct, including policies maintained by the system office.
- Craft a clear and comprehensive approach to campus prevention efforts.

Recommendations

With these overarching goals at the center of our work, TNG makes the following specific recommendations:

- Identify new leadership for Title IX, including beginning an immediate search for a full time Title IX Coordinator, recognizing that it may take several months to engage in a thorough and participatory hiring process. The search for a new Title IX Coordinator should prioritize trust-building on the part of students both in process and outcome.
- Appoint an interim Title IX Coordinator to begin implementing some of these key recommendations in time for the start of the 2021-22 academic year, such as the critical tasks of centralizing and overseeing the assessment of all incoming reports, and beginning the process of revising websites, case tracking, and recordkeeping.
- Assess where the new Title IX Coordinator best fits within its administrative structure. A Title IX Coordinator must have sufficient independence and authority in order to achieve Title IX's equity mandate.
- Both the Interim Title IX Coordinator and the permanent Title IX Coordinator must be visible and active leaders on campus, commanding a substantial presence.
- The Title IX Coordinator should chair and oversee Eastern's SAIV-RT and refresh the mission, membership, and strategy of this group to consistently and effectively coordinate the systems, processes, and procedures that must work in a coordinated fashion. The committee can continue to assess what supportive resources and prevention programming are needed and make recommendations to the Title IX Coordinator.

- Consider effective mechanisms to gather student input into prevention and programming needs, including informal or formal opportunities for students to inform the work and planning of the SAIV-RT.
- Regularly measure climate and effectiveness with regular commitment to climate surveying, at least every three years.
- Establish deadlines for enacting the recommendations in this report to promote clear, transparent, and measurable accountability, and provide regular updates to the community about implementation milestones.
- Create a specific, prominent, and thorough web presence that allows students, faculty, staff, and other individuals to make a report that gets delivered directly to the Title IX Coordinator or a Deputy Title IX Coordinator for intake and initial assessment. The website must make clear that the purpose of using the self-reporting mechanisms (web form, email, in person, telephone) would be to get connected with the Title IX Coordinator (or designee) who will explain the availability and kinds of supportive measures, the difference between making a report and filing a formal complaint, and what will result from doing so. As required by Title IX, this would include that such supports are available to both complainants and respondents. The website should clearly include any designated confidential resources (on- and off-campus).
- Arrange for “first responder” training to all key offices about process, roles, and responsibilities under Title IX to support this improved reporting structure. Training should provide role clarity, a clear understanding of the Title IX grievance process, and encourage empathetic listening/response.
- Gather reports into a centralized database so that the University’s efforts to appropriately respond promptly, thoroughly, and effectively are tracked and documented. Maxient is one common technology that is used by higher education to support such efforts and is used by Eastern for conduct cases currently. Centralized reporting and tracking will allow Eastern to identify trends, patterns, and systemic concerns. Proper initial assessment will allow the identification of multiple reports made about a single respondent or when other patterns of behavior are alleged that might require specific consideration and/or response under Title IX. Tracking will allow the Title IX Coordinator to provide status updates when needed to participants.
- Provide a clear mechanism for members of the community to raise concerns and share feedback about the experience of making a report and participating in the Title IX process.
- Consider creating a “dashboard” to reflect the numbers of reports, categories of reports, type of resolutions (informal or formal), and generalized information regarding status of current cases,

that will be compiled by the Title IX Coordinator, reviewed by the President twice per year, and then published on the University's website.

- Moving forward, and only on an initial basis, Eastern should consider an audit of how reports are handled, including those reports that are responded to with supportive measures only as well as formal complaints that proceed to investigation and hearing. One common mechanism for building confidence is to appoint an external compliance monitor to provide neutral oversight for an initial period of time, such as reviewing all reports made during the 2021-22 academic year.
- Engage in a full policy/procedure audit, in tandem with the system office, to discern what policies currently apply and should be prominently posted on the Eastern website. The Title IX Coordinator should develop a mechanism to archive policies year-to-year.
- Eastern may wish to request that the system office consider an update to the existing policy structure to more clearly centralize information related to investigations and hearings in one coherent place for students to find.
- When investigations are done by on-campus professionals, consider assigning investigators to work in pairs. Team-based investigations can enhance key elements of investigation practice, such as investigation strategy and questioning skills and techniques, including how to effectively interview regarding sensitive subjects.
- Consider adopting an increasingly common practice of recording investigation interviews, with the consent of the interviewee, which enhances recordkeeping and can facilitate the sharing of evidence with parties as required under the 2020 Title IX regulations.
- Gauge the feasibility of using a panel for the decision-making role, rather than a single hearing officer.
- As is customary in effective Title IX practice, continue to invest in training for individuals involved in specific roles in Title IX, including ensuring that each person receives targeted training specific to their role.

Thank you for providing TNG the opportunity to engage in this external review and to share with you our recommendations that represent compliance with Title IX regulations as well as best practices in addressing sex and gender discrimination, harassment, and sexual misconduct. We would be happy to discuss any of our observations and recommendations with you.

Sincerely,

A handwritten signature in blue ink that reads "Sandra K. Schuster". The signature is written in a cursive style with a large initial 'S'.

Sandra K. Schuster, J.D.

Partner

TNG

A handwritten signature in blue ink that reads "Kimberly A. Pacelli". The signature is written in a cursive style with a large initial 'K'.

Kimberly A. Pacelli, J.D.

Partner

TNG