

Title IX Forum

May 5, 2020 | 5-6:30 p.m.

Kim Berry (KB) (SAPC Chair); David Hickcox (DH) (Title IX Coordinator); Paula Arrowsmith-Jones (PAJ) (Campus Advocate Team); Maxwell Schnurer (MS) (CAHSS Dean Fellow) and Mira Friedman (MF) (Lead for Health Education and Clinic Support Services)

KB: states goal of forum, to engage in dialogue, reduce barriers survivors may have for accessing Title IX, increase community understanding of the Campus Advocate Team's role in supporting survivors whether they engage in Title IX or not. Acknowledges weaknesses in the past with the Title IX process and willingness to listen. Acknowledges that initial planning of forum was in part to provide space to respond to allegation of HSU faculty member soliciting sex from students; gives update on this (faculty member is no longer working at HSU).

Provides background information on the role of SAPC, her role, Mary Sue Savage and CHECK IT, reporting responsibilities and survivor-centeredness.

DH: Overview of Title IX Office; history and intentions of Title IX as federal legislation, and his recent arrival to Title IX Coordinator in HSU's Department of Human Resources, and saw that Title IX Office needed to do more to serve and support students. Requested audit of open cases, which resulted in recommendation to expand office -- add two full-time positions, also recommended that Title IX be moved out of DHR and to Office of President. President Jackson approved these changes. Title IX Office was moved to be under the Office of the President and they are actively recruiting for these two positions.

PAJ: Shares slides on CAT. Explains CAT's services, confidentiality and privileged communication, supporting survivor's choices no matter what those are, working with the university but not for the university, being a community-based organization that partners with the university. CAT is a program of the North Coast Rape Crisis Team (NCRCT), which has existed for over 47 years. Guided by the belief that survivors know better than anyone else what makes sense for themselves, and that they manifest their own healing. CAT tries to provide safe enough spaces and moments to support someone in manifesting that healing. Explains accompaniment services and view on advocacy -- to advance the wishes and make known the options that survivors have.

KB opens the written question and answer portion (have 15 minutes for this portion, and then will return to Q&A after giving people an opportunity to speak).

Question (Q): How do you ensure due process for students who have been accused of assault?

DH: Means ensuring we're compliant with policy (EO 1097), which gives students a pathway to make a complaint, stipulates timelines, timely due process for people bringing the complaint.

PAJ: Wants to comment on due process for the person who's the respondent. Title IX Office - for both parties (alleged perpetrator = respondent; survivor = complainant), those parties have provided to them their rights, responsibilities and options, and while the complainant has the support of the CAT, the respondent has the right to an advisor and are informed of that.

Q: In surveys, was the accused professor identified by patterns, or would you consider doing a survey with the accused professor in mind.

DH: Believe the answer to this question is yes. Student course evaluations were reviewed and that was part of the investigation; can't comment on the rest of it.

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Q: Is there going to be a written script or summary of this presentation or conference (for people with auditory disabilities).

KB: Colleagues are taking notes. Anyone who would like to get written comments can contact Kim Berry and she will connect you. kim.berry@humboldt.edu.

DH: If anyone wants more detail on Title IX, David is happy to speak with them over Zoom or phone.

Q: Comment not question: important to clarify that therapists at the counseling center don't have reporting requirement.

Q: How do students know what is reportable, sometimes they go through the stress of reporting to find out that there is not recourse for them through Title IX, what are protections for retaliation, what are the mechanisms to protect them from stress when they don't get the outcome that's expected or needed.

PAJ: Acknowledges process is long and difficult, knows Title IX Office is trying to improve that, and DH works to keep in communication with claimants and respondents. If someone who worked with the Title IX Office in the past and didn't experience that, they can call the CAT to talk about that and then make a decision if they want to address that issue in a more formal way that they can support them through. Acknowledges that outcomes are very important and every survivor deserves to have accountability and respect, it's also important to acknowledge that a survivor's healing and forward movement isn't dependent on a system's outcome. Doesn't want to minimize how difficult it is to not a particular outcome of a case.

DH: Knows it's frustrating for students who make complaints to find out that it doesn't fall under Title IX. They may perceive it to be harassment, but CSU has a very specific threshold. DH can still work to address the behavior that's being perceived as harassment and work to make it stop, can also work with the Dean's Office. Intention is for students to feel that they can come into the Title IX Office and be heard. Title IX Office can still address the behavior that's causing the stress, hurt, harm, and upset, even if it doesn't meet the threshold or the student doesn't want to file a formal complaint, they will still actively work to help students recover from the trauma they experienced.

PAJ: Wants to add, if someone has felt a lack of response in some way, we certainly would want to support them 100% in voicing that if they choose to. It's also important, one of the roles of an advocate at the beginning of a process can talk about what they've seen in different kinds of cases -- the range of different likely outcomes may be -- so they can enter the process with more of a realistic idea of what the limitations are, because they might have an idea of something isn't going to happen. CAT won't say what will or won't happen, but they have a good idea of the kind of barriers that a particular case or survivor might face. Not to dissuade them from entering into a process, but so they have a clear idea of the challenges.

KB: Connected to benefit of working in a team. When there are gaps in policy, it can be brought back to the team to see if there are other ways of addressing the limitations that exist within our current structure, and it's important for us to envision a better, stronger structure and work toward that.

Q: How do you interpret Title IX as protecting trans students from harassment when it takes the form of repeated and public misgendering?

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DH: Misgendering does not typically qualify as harassment as harassment is defined by the CSU (EO 1097). But it is behavior that is offensive to the reporting party and the Title IX Office will receive this complaint and work to address it. ¹*See below for clarification added after the forum.*

Q: How does Title IX support young mothers who are told not to bring their young children to class, on campus, etc.?

DH: Right now we don't have enough services on campus for young mothers and we need to have more. For spaces for breastfeeding and needs of young mothers. Would encourage any student or staff who is feeling that they do not have access to education because of parenting issues to bring those to Title IX and we will discuss them and do what we can to provide that access.

Switch to open the forum for people to speak:

Suzanne Pasztor: Is one of two university ombudspersons on campus, has a reporting obligation unlike Paula, can't legally help students explore whether it should be reported. One comment: tip hat to David, the last (prior) academic year there was a gap in comprehensive Title IX coverage and that meant that these cases came to me as an ombudsperson, and I found myself in a tough spot because people didn't feel like they could go to the Title IX Office, didn't even feel that their calls were being returned. It opened my eyes to how Title IX works and how little I knew about how the CAT and SAPC works, and I appreciate knowing more. Question: seems at least once a year I have a former student who will call me and ask what they can do about an alleged sexual assault or incident of violence that occurred on campus many, many years ago. Now understands she can put them in touch with the CAT, even if it was very long ago (like the 1970s). Other question: have had groups of people (5-7 people) who have experienced sexualized or racialized violence from another person, they don't wish to come forward, but they do wish for an intervention in the interest of educating the

¹ Misgendering is usually reported to the Title IX Office as a complaint alleging discrimination or harassment.

CSU policy (EO 1097: <https://calstate.policystat.com/policy/6742744/latest/>) defines these two terms:

- **Harassment** means unwelcome conduct, based on the Complainant's Protected Status, that 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 her/his ability to participate in or benefit from the services, activities or opportunities offered by the University.
- **Discrimination** means Adverse Action taken against a Student by the CSU, a CSU employee, or another Student because of a Protected Status.
 - **Adverse Action** means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a University program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.

Misgendering stemming from an act of omission (someone who has been informed of a person's preferred pronouns, but did not properly apply them in error) normally does not reach the threshold of harassment or discrimination.

Misgendering stemming from someone making a deliberate decision to not use a person's preferred pronouns, repeatedly over time would reach the threshold of harassment and possibly discrimination.

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person that they're concerned about. That's been tricky for me -- the question is, if I have this group, and this person who is accused who is willing to engage, what would that look like?

PAJ: I would like to offer to you and to anyone else that we would be open to having a conversation about what the options and possibilities could be. At CAT we would be leery of anything that might be like mediation, because that doesn't tend to be a positive experience when there's already a power imbalance. The SAPC has been talking about ways we might be able to have conversations with and support and empower students who might want to act in a particular way in a group where harm has been done, that's something we're talking about and working toward. Also CHECK IT, who is part of the SAPC, they focus on bystander interventions, so that might be an option as well -- connecting with Mary Sue Savage about workshop possibilities. Happy to have a longer conversation with Suzanne about this.

SP: I've been asked as an ombudsperson to do mediation myself and I've been deeply uncomfortable with that.

DH: *responds but has connectivity problems and we can't hear.*

Q: How can students navigate a no contact order when the perpetrator looks for loopholes to try to harm them.

PAJ: No contact order tells all parties involved not to have contact. As opposed to a county restraining order, which restrains the person who caused harm and makes it clearer who needs to change their behavior. What I've seen is that if two people are in a public space, they're asked to give each other as much space as possible. Someone wouldn't necessarily be told they can't be in that space. Certainly if their behavior is escalating, if there's a threat, a threat of contact, etc., an option that's been offered is calling law enforcement, UPD, and they might have the person who is causing the problem leave the space. It's a tricky balance. If two people happen to go to a performance at the JVD, the no contact order wouldn't say that someone has to leave, but the expectation is that they wouldn't interact with each other, crowd each other's space, or do some kind of third-party harassment, because that's a violation of the no contact order.

DH: *responds but has connectivity problems and we can't hear.*

Roger Wang: It's a hammer solution to situations that require a different tool. Circumstance of being the same public space can be difficult for the person who initiated that no contact order. If this continues to happen, I would encourage the student to contact David or me (in the Dean's Office) to get support on this. We'll talk to the respondent, the person causing this issue, and try to stop the behavior. If the behavior continues, then they can address the behavior in a more formal way.

PAJ: Also wants to acknowledge that when someone has been harmed, especially if they were in a relationship together, they will pick up on subtle cues that will mean things to them that wouldn't be seen or understood by others. Those are valid, but because they're subtle they're hard for others to see it meeting the definition of harassing behavior, but it's good to hear Roger say they will still work to address the behavior.

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Q: Given that trans and nonconforming students might not feel ensured they're covered by Title IX, can Title IX Office add information to their website, and will the questions being asked today be added to the Title IX website?

DH: They are definitely covered by Title IX; *added after the forum - the questions being asked today will be added to the Title IX website.*

Q: In the case of harassment, can the Title IX Office include educational resources on their webpage about what's covered?

DH: Yes, we can do this.

PAJ: We can put this on the agenda for the SAPC. Every semester with CHECK IT we do outreach to try to clarify some of these things, so we can talk about a strategy to make this more well known and improve clarity about it.

KB: We do have a poster that makes the policies very clear that misgendering and dead-naming are violations of Title IX and we can work on distributing that.

Loren Cannon: Now just saying hello, because those were my two questions on behalf of students who asked me to be here. There has been an understanding on campus from what I hear from students that it's sometimes taken less seriously than other types of issues, so that's why I'm here. It's good to know that I can tell students that this is seen as gender-based harassment and it will be looked into if they file a complaint.

KB: It's part of the culture-change work we're involved in, with CFA and their social justice lens. We all as employees went through a new training, and though our online trainings are minimal, this was highlighted by the CSU system that gender-based discrimination is covered by Title IX.

Loren Cannon: I expect that a lot of this is from professors and teachers, that students are feeling this way.

DH: If you reach out, we can work together on this.

PAJ: Some students dealing with these forms of harassment wouldn't think of the CAT because sometimes people think there has to be actual physical harm, but we understand that all harm matters. So if you knew a student who was looking for a place just to have a conversation and thinking about taking a complaint forward, or wants some validation, you can let them know that any kind of gender-based harassment is part of what our advocacy covers at the CAT.

Mira Friedman: Can you all speak to anonymous reporting, is that an option, what does that look like and what is the process.

Donn Peterson (UPD Chief): Yes, UPD is one of the resources on campus and we really try to work with all of our campus partners and take guidance from campus partners. Specific to anonymous reporting, we do provide for that. It's available on the UPD website. We absolutely will follow up on those things.

PAJ: Wants to ask if Donn can speak to third-party reports, what can they do and what happens with that.

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DP: Each one is different, we take each one individually and investigate and deal with the issues with each specific complaint, working with the Title IX Office and Dean's Office. It may require some investigation outside of Humboldt County in another jurisdiction and we're equipped to do that and absolutely can and will do that.

DH: We take them. Our ability to hold the reported party accountable is severely limited, but our ability to get resources to the person being harmed, we can do that. If it's a third party bringing an anonymous report, we have to look at that on a case by case basis. Accountability is harder, but we can take steps to stop the behavior that's causing harm.

Q: What happens to students who survive harm, go through the Title IX process, and what support is available after they graduate?

MF: NCRCT continues to be a resource for them, can help them connect to needed resources. We are limited in a capacity where students, once they graduate we can't do as much as when they were a student, so that might limit them on access to the Title IX Office.

KB: Asks DH to speak to a student graduating if they had a Title IX Office

DH: Investigation continues. If it's not being investigated but if the student needs support, we'd work to find support options. CAPS can't see graduated students but they have information for low cost counseling options in the area or out of the area. The accountability part of the process will continue even if or after the student graduates.

PAJ: If someone has left the area, after graduation or now during this COVID crisis, we would continue to provide services directly ourselves and look for resources for them in their local area so that they had both.

MF: Asks them to speak to the fact that many people on campus are mandated reporters and trainings are offered, what are the best practices and what are the benefits of going through this training:

DH: I know that that is something we've done in the past and it needs to be done and will be done. The duty to report incidents of violence is codified in EOs. I know that, in the moment, students may not want that, so we address that with training that is informed and useful, and I mean that it contains the clues and the cues that can stop a student who starts to report, to let them know that you're a mandated reporter. BUt ultimately if they report it and opt to go to CAPS or CAT, we give them resources to help stop the harm that they're experiencing.

KB: The key is being ready to interrupt someone as they are potentially sharing something that is very emotional. It's a hard skill to develop, so part of the training is around understanding the importance of interrupting, and understanding survivor-centeredness: that in the moment of harm, their choice is taken away from them, and so taking away the choice about reporting away from them is connected to that. So, we want to give people the information of choosing who they're speaking to so they can make their own decision to work with the Title IX Office, or seek the support of the CAT. The training is practice-based, and it's hard work, you have to practice interrupting. It's also about understanding healthy boundaries when someone does choose to share with us, and how to keep the

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survivor at the center and also have healthy boundaries to support their healing process. It's a two-hour long training.

PAJ: The SAPC is putting together a schedule, but what has been is to try to do a couple of those every semester. If somebody reached out to us -- a department or group -- the CAT would provide a training.

MF: Wants to highlight some comments. One came from Dr. Jason Meriwether who said thank you for this session and your leadership. Another comment of thanks and that they hope there will be another forum at the start of fall semester.