



# Central Connecticut State University HR, OEI, & Ombud Process Mapping Initiative

## Supplemental Report

Updated May 20, 2020



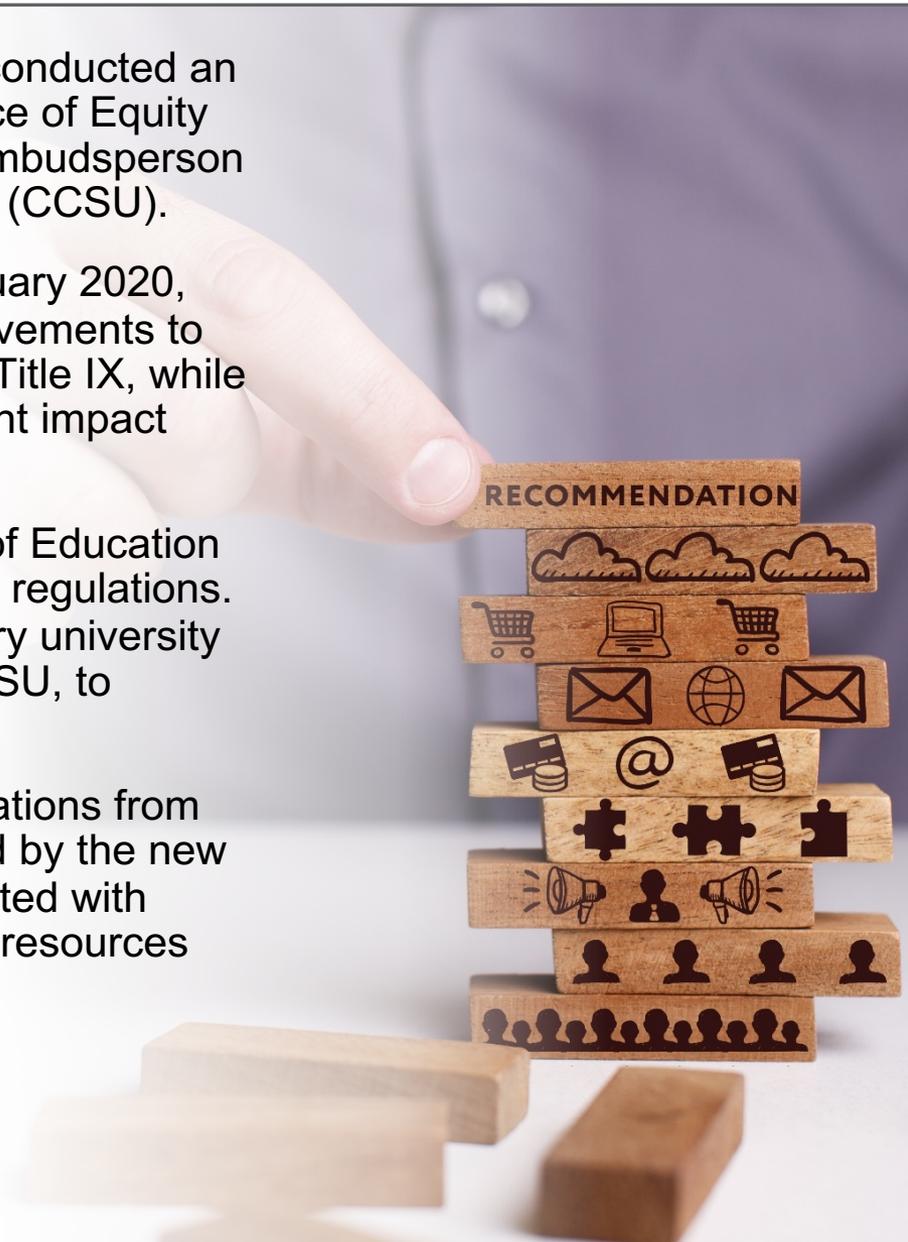
 Sibson Consulting

# Supplemental Report

## *Introduction*

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- Segal (previously known as Sibson Consulting) conducted an assessment of the Human Resources (HR), Office of Equity & Inclusion (OEI), and Office of the University Ombudsperson functions at Central Connecticut State University (CCSU).
- As part of reports delivered in January and February 2020, Segal recommended a number of process improvements to the way CCSU handles allegations falling under Title IX, while noting that pending federal regulatory action might impact these recommendations.
- On May 6, 2020, the United States Department of Education (DOE) released its Final Rule on the new Title IX regulations. The new DOE regulations will require nearly every university and college campus in the country, including CCSU, to change the way they handle Title IX claims.
- The following pages summarize the recommendations from Segal's prior reports that are potentially impacted by the new Title IX Final Rule, outline the next steps associated with these impacts, and begin to identify the required resources for implementation of these changes.



# Title IX Final Rule

## Supplements to Recommendations – Tracking and Notice

Report Recommendation	Impact of New Title IX Final Rule	Next Steps	Required Resources
<ul style="list-style-type: none"> <li>• Consider implementing a tracking system to track the complaints that come into the OEI and HR offices and better track metrics for items like time to close, issue trends, etc. (P. 11)</li> <li>• Determine if technology will be used to implement a tracking system. If so, does the iSight technology provide the needed functionality or will another technology need to be selected? (P. 11)</li> <li>• Identify who will be responsible for taking over tracking and reporting responsibilities. (P. 11)</li> <li>• Determine specific metrics that need tracking. (P. 11)</li> </ul>	<ul style="list-style-type: none"> <li>• Requires recordkeeping for seven years of investigations, determinations, hearing transcripts, disciplinary sanctions, remedies, appeals, informal resolutions, training materials, supportive measures, etc.</li> <li>• Requires posting of training materials on CCSU website</li> <li>• Requires documentation that the institution’s response was not “deliberately indifferent”</li> </ul>	<ul style="list-style-type: none"> <li>• Identify tracking system and other technology tools to meet new recordkeeping obligations</li> <li>• Identify record-keeper responsible for maintaining Title IX records</li> <li>• Develop training for record-keeper on required items to be kept</li> <li>• Post training materials on CCSU website</li> </ul>	<ul style="list-style-type: none"> <li>• Tracking system/software</li> <li>• Record-keeper</li> <li>• Training program for record-keeper</li> <li>• IT support to post training materials</li> </ul>
<ul style="list-style-type: none"> <li>• Conduct general training on campus of mandatory reporting obligations. (P. 11)</li> <li>• Set requirements/consequences for failure to take training including employee supervisor (e.g. Incorporate as a component in the performance management review process, formal discipline for employees that don’t participate consistent with collective bargaining provisions, etc.) (P. 11)</li> <li>• Determine what the appropriate consequences are for failure to take training. (P. 11)</li> </ul>	<ul style="list-style-type: none"> <li>• Final Rule changes notice requirements and ties “actual knowledge” to Title IX Coordinator and officials with authority to institute corrective measures<sup>1</sup></li> <li>• Permits higher education institutions to determine whether to continue to make certain other employees mandatory reporters or confidential resources, without impacting “actual knowledge” notice</li> </ul>	<ul style="list-style-type: none"> <li>• Need to inform campus community of Title IX Coordinator’s role</li> <li>• Need to decide whether all employees will remain mandatory reporters</li> <li>• Need to address potential cultural shift with changes in mandatory reporters</li> <li>• Need to decide whether to designate certain employees as confidential resources without automatically triggering a report to Title IX Coordinator</li> </ul>	<ul style="list-style-type: none"> <li>• Consultation with University Counsel and system office about mandatory reporter policy</li> <li>• Robust communication plan to campus community about changes in notice requirements and designation of Title IX Coordinator to receive allegations</li> <li>• Develop change management strategy to address potential culture shift away from mandatory reporter model</li> <li>• Facilitation of meetings with campus community regarding potential change in mandatory reporters</li> </ul>

<sup>1</sup> Institutions would no longer be held to constructive knowledge standard of “knew or should have known,” and notice to mandatory reporter would no longer qualify as notice requiring response by institution.

# Title IX Final Rule

## Supplements to Recommendations - Intake

Report Recommendation	Impact of New Title IX Final Rule	Next Steps	Required Resources
<ul style="list-style-type: none"> <li>• Clearly define what constitutes as a complaint then publish definition to campus. (P. 12)</li> <li>• Clearly define and articulate the intake process for OEI vs HR and define the roles of these two offices. Publish and communicate these processes to campus. (P. 12)</li> <li>• Formally define the role that is accountable for receiving complaints (e.g. OEI or HR). (P. 12)</li> <li>• Modify and standardize the current intake form to ensure consistency. (P. 12)</li> </ul>	<ul style="list-style-type: none"> <li>• Final Rule requires Title IX Coordinator to take specific steps in response to allegations falling under Title IX</li> <li>• Final Rule requires communication to campus of identity and contact information for Title IX Coordinator</li> </ul>	<ul style="list-style-type: none"> <li>• Communicate to campus community new required steps in Title IX intake and complaint process</li> <li>• Communicate to the campus community required information about Title IX Coordinator</li> <li>• Provide training to OEI and HR offices on new requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Communication plan to address intake and complaint process, and required information about Title IX Coordinator</li> <li>• Training program for OEI and HR staff</li> </ul>
<ul style="list-style-type: none"> <li>• Modify the process to ensure that the investigator is communicating with the victim to gather an understanding of their mental state before determining if there is a policy violation. (This step would be the same if the complaint was given to HR) (P. 12)</li> </ul>	<ul style="list-style-type: none"> <li>• Final Rule mandates specific topics that Title IX Coordinator must convey to complainant, including availability of supportive measures and complaint process</li> </ul>	<ul style="list-style-type: none"> <li>• Provide training to OEI and HR staff about new requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Training program for OEI and HR staff</li> </ul>
<ul style="list-style-type: none"> <li>• Expand the advocacy function to include a role that serves complainants at this entry point. (P. 12)</li> </ul>	<ul style="list-style-type: none"> <li>• Final rule permits institutions to determine “which employees... should remain resources in whom students may confide without automatically triggering a report... to the Title IX Coordinator”</li> </ul>	<ul style="list-style-type: none"> <li>• Identification of employees designated as confidential resources</li> <li>• Develop communication plan to inform campus community of availability of confidential resources</li> </ul>	<ul style="list-style-type: none"> <li>• Draft communication plan</li> <li>• Facilitate campus meetings</li> <li>• Training program for confidential resources</li> </ul>

# Title IX Final Rule

## *Supplements to Recommendations – Intake and Investigations*

Report Recommendation	Impact of New Title IX Final Rule	Next Steps	Required Resources
<ul style="list-style-type: none"><li>• Determine if advocate will be assigned for each investigation and if this person will be assigned only to the complainant or if they will be assigned to the respondent as well. (P. 13)</li><li>• Determine who will maintain the advocate role as it relates to investigations. Will this be a voluntary position or fall under the purview of the current Victim Advocacy Coordinator (OVA) role and thus require additional resources. (P. 13)</li><li>• Determine if the advocate role will be a mandatory role within the investigation process and reporting structure. (P. 14)</li></ul>	<ul style="list-style-type: none"><li>• Final Rule requires that parties have advisor of their choice present during any grievance proceeding / if party does not have an advisor, institution must provide one</li></ul>	<ul style="list-style-type: none"><li>• Identify advisors for both complainants and respondents</li><li>• Identify resources and provide training to advisors</li><li>• Develop guidelines and role descriptions for advisors</li></ul>	<ul style="list-style-type: none"><li>• Create pool of advisors</li></ul>
<ul style="list-style-type: none"><li>• Determine who will be the accountable party for receiving complaints. (P. 13)</li></ul>	<ul style="list-style-type: none"><li>• Final Rule identifies Title IX Coordinator and officials with authority to issue corrective measures as accountable parties for notice purposes</li></ul>	<ul style="list-style-type: none"><li>• Communicate to campus community role of Title IX Coordinator in receiving complaints</li></ul>	<ul style="list-style-type: none"><li>• Communication plan</li></ul>

# Title IX Final Rule

## Supplements to Recommendations – Investigations and Hearings

Report Recommendation	Impact of New Title IX Final Rule	Next Steps	Required Resources
<ul style="list-style-type: none"> <li>• Implement a dual investigator model as part of the evidence collection and decision-making process. (P. 14)</li> <li>• This team of [dual] investigators will work with the Title IX Coordinator to render findings and recommendations. (P. 14)</li> <li>• Implement a dual investigator model as indicated in the Title IX investigation process. (P. 17)</li> </ul>	<ul style="list-style-type: none"> <li>• Final Rule mandates grievance process for investigations and live hearings</li> <li>• Final rule requires creation of investigatory report for review and response by parties in advance of hearing or other determination</li> <li>• Final Rule requires live hearings with cross-examination of witnesses</li> <li>• Final Rule requires decision-maker(s) at hearing to render written determination with required elements, subject to appeal</li> <li>• Final Rule requires that decision-maker at hearing cannot be either the investigator or the Title IX Coordinator</li> <li>• Determine burden of proof at hearing, i.e., preponderance of evidence vs. clear and convincing evidence</li> </ul>	<ul style="list-style-type: none"> <li>• Develop investigation process consistent with Final Rule</li> <li>• Develop live hearing policy and process consistent with Final Rule</li> <li>• Identify and train hearing officer or panel</li> <li>• Engage bargaining unit representatives about required changes</li> <li>• Address impact of selection of burden of proof, i.e., renegotiation of applicable collective bargaining agreements (CBAs) or legislative changes</li> </ul>	<ul style="list-style-type: none"> <li>• University Counsel to review new hearings policy and process</li> <li>• Training program for hearing officer or panel</li> <li>• Communications strategy and plan for disseminating new hearings process for campus community</li> <li>• Hearing officer or panel</li> <li>• University Counsel to address CBAs and work with system office on necessary system-wide changes and/or legislation</li> </ul>

# Title IX Final Rule

## *Supplements to Recommendations - Appeals*

Report Recommendation	Impact of New Title IX Final Rule	Next Steps	Required Resources
<ul style="list-style-type: none"><li>• Update Title IX investigation policy to include a specific timeline for submitting an appeal (e.g. not less than 7 days), in accordance with ATIXA best practices. (P. 15)</li><li>• Create a standard for incoming appeals. This should include proper notice of the appeal process, definition of what constitutes an appeal, the length of time designated for filing an appeal (no less than 7 days after a decision is rendered), and how an appeal should be filed. This information should be disseminated to the involved parties at the end of the investigation process. (P. 18)</li><li>• Consider designating an appeals officer to facilitate the management and disposition of incoming appeals. The appeals officer should be a trained appeals officer, that is free from conflict and had no prior involvement in the earlier stages of the case. The designated officer will work with the President, or the Appeals panel in the case of an AAUP member, to ensure all the necessary materials have been gathered and the proper due process is followed. (P. 18)</li><li>• Establish a length of time for an appeal window of at least 7 business days following an investigation. (P. 18)</li><li>• Update the sexual misconduct policy or another appropriate policy document to include information on the established standards for the appeals process, including a description of the appeals process, how to formally file an appeal, the length of time for requesting an appeal, and the grounds for requesting an appeal. (P. 18).</li></ul>	<ul style="list-style-type: none"><li>• Final Rule requires appeal process for either party, based on certain specified grounds</li><li>• Requires appeals officer to be free from conflict, and cannot be the same person as either the investigator or the hearing officer</li><li>• Requires establishing reasonable deadlines for appeals and ability to prepare written statements in support of or challenging outcome</li></ul>	<ul style="list-style-type: none"><li>• Draft appeal process policy and process</li><li>• Open negotiation over revisions to collective bargaining agreements (CBAs) to ensure CBA is consistent with new regulations (e.g., AAUP Appendix F)</li><li>• Identification and training of appeals officer</li></ul>	<ul style="list-style-type: none"><li>• University Counsel to review new appeal process</li><li>• System office counsel to initiate potential collective bargaining over changes to appeal process</li><li>• Appeal officer(s)</li></ul>