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Occidental College Title IX Program Review

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Occidental College Title IX Program Review

Lauren Di Lella

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¹ Photo available at: *Occidental College*, WIKIPEDIA, https://en.wikipedia.org/wiki/Occidental_College (last visited Apr. 11, 2024).

General Information

Accessibility and Information Provided

Occidental College's Title IX information is easily accessible as it pertains to sexual misconduct and resources for LGBTQIA+ individuals. Information about Title IX and athletics is non-existent on the College's websites, and resources for pregnant students are buried within different tabs, providing only piecemeal answers as to what rights and protections pregnant students are afforded under the law .

Upon searching for "Occidental College Title IX Office," on Google, several results populate—many of which redirect to the Civil Rights & Title IX Office home page or one of its subpages. At the top of the home page is the following message: "The Civil Rights & Title IX Office receives and responds to reports alleging violations of Occidental College's civil rights policies, including the Sexual and Interpersonal Misconduct Policy and the Discrimination, Harassment, and Retaliation Policy."² Below are links to the "Sexual Respect & Title IX" tab and the "Civil Rights" tab. At the bottom of the page is the location of the Civil Rights & Title IX Office on campus and the contact information for the Civil Rights & Title IX Coordinator, Alexandra Fulcher. Also available is the contact information for Andrea Boyle, the Case & Support Manager. On the right side of the page is a drop-down menu with the following links to subpages with more specific information: "Civil Rights," "Sexual Respect & Title IX," "Communications," "Notice of Non-Discrimination," and "Meet the Team." There are additional subpages within these tabs. Under "Sexual Respect & Title IX," for example, there are tabs for "How to Report," "Queer & Trans Guide," "Policies & Procedures," "Resources," among others. The "Civil Rights" tab includes a similar set of subpages. The "Queer & Trans Guide" provides robust support and resources for Occidental's LGBTQIA+ community. Neither the Title IX Office's home page nor any of its subpages, however, include the text of Title IX or any information about its scope and applicability, and there are no links to access these materials elsewhere.

A student-athlete viewing the home page would likely have no idea Title IX covers athletics. There are no references to "athletics," "sports," or "student-athletes." A Google search with the terms "Occidental College Title IX and athletics" yields many of the same results to the Civil Rights & Title IX Office's home page. The fourth search result directs to the Oxy Athletics website, which may offer more hope for finding information about Title IX's coverage of collegiate sports. Disappointingly, though, the link directs to the "List of Student-Athlete Compliance Forms"—one of which is a Title IX Attestation form. The Oxy Athletics website otherwise makes no mention of "Title IX" at all. Under the "Inside Athletics" tab is a mission statement—where one might expect to find information about the College's commitment to equality in athletics, consistent with the spirit

² *Civil Rights & Title IX Office*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix> (last visited Apr. 14, 2024).

and purpose of Title IX. Yet the mission statement makes no mention of the law.³ Similarly, neither the “Compliance” tab nor the “Code of Conduct” tab make any mention of Title IX.⁴ Even typing “Title IX” into the website’s search bar yields only a link to the “List of Student-Athlete Compliance Forms” where the Title IX Attestation form can be found.⁵

Moreover, it is unclear whether pregnant students would know or understand that Title IX applies to them. Upon searching “Occidental College Title IX pregnancy” the most relevant results yielded were “Class Absence Due to Illness or Extenuating Circumstances,” “Notice of Non-Discrimination,” and “Healthy & Safety.” The Civil Rights & Title IX Office home page, interestingly, does not even come up as an option. Moreover, only the “Notice of Non-Discrimination” page even mentions Title IX.⁶ The non-discrimination policy (listed on the page) does clarify that discrimination on the basis of sex extends to pregnancy, but the text of Title IX is nowhere to be found. The page merely indicates that “such conduct” (i.e., discrimination) is prohibited “as required by Title IX of the Education Amendments of 1972 and its implementing regulations.”⁷ The page also includes information about reporting discrimination or harassment, so perhaps a pregnant student would understand, at a minimum, that she could not be discriminated against for being pregnant. However, there is no web page dedicated to pregnant students alone.

Organization

Occidental College’s Title IX information is well-organized insofar as it relates to sexual misconduct. The College includes this information under one centralized home page that is clearly affiliated with the Civil Rights & Title IX Office. Within this page, there is a sidebar with separate tabs for sexual misconduct and civil rights, each of which have subtabs for reporting options, FAQs, training, links to official policies, resources etc. Within the “Resources” tab alone is information pertaining to emergency reporting options, supporting a friend/student, and LGBTQIA+ students. The College’s official sexual misconduct and discrimination, harassment, and retaliation policies are also easily accessible from this page. Students navigating sexual misconduct issues certainly have access to a great deal of information from the College’s website alone.

The College’s websites are not, however, well-organized in terms of providing information to student-athletes or pregnant students. Even LGBTQIA+ students may assume that Title IX applies to them given the Queer & Trans Guide’s location within the Civil Rights & Title IX Office website,

³ *Mission Statement*, OXY ATHLETICS, <https://oxyathletics.com/sports/2023/8/7/mission-statement.aspx> (last visited Apr. 14, 2024).

⁴ *Compliance*, OXY ATHLETICS, <https://oxyathletics.com/sports/2023/8/7/compliance.aspx> (last visited Apr. 14, 2024); *Student-Athlete Code of Conduct*, OXY ATHLETICS, <https://oxyathletics.com/sports/2023/8/7/code-of-conduct.aspx> (last visited Apr. 14, 2024).

⁵ *Site Search*, OXY ATHLETICS, <https://oxyathletics.com/searchresults.aspx?q=Title%20IX#gsc.tab=0&gsc.q=Title%20IX&gsc.page=1> (last visited Apr. 14, 2024).

⁶ *Notice of Non-Discrimination*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/notice-non-discrimination> (last visited Apr. 14, 2024).

⁷ *Id.*

but the Guide does not include any explicit statement about Title IX’s protections for LGBTQIA+ students. Beyond sexual misconduct, we know Title IX applies to pregnancy and athletics. Yet the only mention of pregnancy on the Civil Rights & Title IX Office’s entire website is in its non-discrimination statement. Pregnant students would need to dig through tabs on other web pages, such as “Healthy & Safety” or “Student Life,” to find additional information. Even still, neither of those pages provide adequate information about what the College is doing to support pregnant students. The “Class Absence Due to Illness or Extenuating Circumstances” page indicates that pregnant students should report their pregnancy to the Dean of Students if they need to be excused from class, and the “Health & Safety” page mentions the availability of pregnancy tests. That’s it. Within the Civil Rights & Title IX Office home page, there should be an explicit statement that Title IX protects pregnancy with a list of resources the College offers to such students.

Finally, and most glaringly, the lack of any information about Title IX’s coverage of athletics is problematic. Both within the Civil Rights & Title IX Office’s home page and the Occidental Athletics website should be a page specifically dedicated to Title IX’s applicability to sports, with information about student-athletes’ rights, reporting information, and available resources. Without having specialized legal knowledge, the College’s organization of its Title IX resources alone leaves student-athletes and pregnant students more vulnerable.

Training

Occidental College’s Title IX training materials were fairly easy to locate, but they were limited to trainings on sexual misconduct. The “Training & Education” page is available under the “Sexual Respect and Title IX” tab of the Civil Rights & Title IX Office’s home page. At the top of the page is a statement indicating the College’s commitment to providing training “to the entire Occidental College Community.”⁸ The page then includes a list of frequently asked questions regarding student training, which is a prerequisite to enrollment at the College. The page also includes an option to request a training for “your organization, department, or class” with a link to do so. The link redirects to a separate web page with different types of training options, including meetings, employee consultations, or trainings by the Civil Rights and Title IX Office directly.⁹ Finally, the page includes community training options and training materials specifically for staff. Staff trainings are broken up into Title IX coordinator training, Title IX investigator trainings, and Title IX hearing officer training. Each links to a separate PDF. Interestingly, these training materials only mention “athletics” with respect to discipline—if a student is found to have violated Title IX, they may be suspended from athletics or restricted in their participation.

Though not included under the “Trainings” page or formally associated with the Civil Rights & Title IX Office, the College provides other educational resources about sexual misconduct under the “Resources & Support” tab of the “Student Life” page. One resource is Project SAFE, a

⁸ *Training & Education*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/sexual-respect-title-ix/training-education> (last visited Apr. 14, 2024).

⁹ CALENDLY, <https://calendly.com/oxycivilrightsandtitleix> (last visited Apr. 14, 2024).

prevention and advocacy support program dedicated to ending sexual violence on Occidental's campus.¹⁰ Project SAFE provides resources, advocacy, and programming related to issues of sexual assault, dating violence, sexual harassment, and stalking. Project SAFE creates custom workshops and presentations for student groups, sports teams, classes, and departments on campus related to trauma-informed care, consent, setting boundaries, being an "upstander," and recognizing red flags in relationships. Despite not falling under the Civil Rights & Title IX Office umbrella, the Office recognizes Project SAFE as an important resource for students and even links to Project SAFE's home page under its "Resources" tab.

Ongoing Investigations

Occidental College is not currently under investigation for any Title IX complaints.¹¹

Athletics

Coordinator for Athletics

Occidental College does not have a separate Title IX coordinator for athletics likely due to the small student population. The College's Title IX Coordinator is Alexandra Fulcher. Andrea Boyle is the only other person who works in the Civil Rights & Title IX Office with Ms. Fulcher, and she is the "Case & Support Manager."¹² Interestingly, there is no information on the Oxy Athletics website nor the Civil Rights & Title IX Office website about who to contact for athletics-related Title IX issues. Under the "Meet Our Team" tab of the Oxy Athletics website, there is contact information for the "Assistant Athletic Director for Compliance"—a man named Robert Bartlett.¹³ It is possible that the College intends for Mr. Bartlett to be the initial point of contact for athletics-related Title IX issues, but this is not at all clear from the website.

Filing a Complaint

Occidental College provides no information about how to file a Title IX complaint for an athletics-related issue. As mentioned, the Civil Rights & Title IX Office home page makes no mention of "athletics" and neither do any of its subpages. At the very top of the home page is the

¹⁰ *Project S.A.F.E.*, OCCIDENTAL COLL., <https://www.oxy.edu/student-life/resources-support/project-safe> (last visited Apr. 14, 2024).

¹¹ *Pending Cases Currently Under Investigation at Elementary-Secondary and Post-Secondary Schools*, U.S. DEP'T EDUC., OFF. CIV. RTS., <https://ocracas.ed.gov/open-investigations> (last visited Apr. 14, 2024) [hereinafter *Pending Cases*].

¹² *Meet Our Team*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/meet-our-team> (last visited Apr. 14, 2024).

¹³ *Staff Directory*, OXY ATHLETICS, <https://oxyathletics.com/staff-directory> (last visited Apr. 14, 2024).

following language with a link to make a report: “The Civil Rights & Title IX Office receives and responds to reports alleging violations of Occidental College’s . . . Sexual and Interpersonal Misconduct Policy and the Discrimination, Harassment, and Retaliation Policy.” The College does not appear to have an official policy related to athletics. The Sexual and Interpersonal Misconduct Policy mentions the word “athletics” only twice, specifying that “Occidental College does not discriminate on the basis of sex in its educational, extracurricular, *athletic*, or other programs” and noting that students facing disciplinary action for a Title IX violation may be prohibited from participating in athletics.¹⁴ The College has a separate Discrimination, Harassment, and Retaliation Policy, which makes the same two mentions to athletics.¹⁵

Other than these scant references to athletics in the College’s official policies, the only other mention of “Title IX” and “student-athlete” together is under the “Compliance” tab of the Oxy Athletics website. There, the College lists out the procedure for the “Title IX Attestation Form”: “The Compliance Officer will review each completed Title IX Attestation Form prior to the start of each academic year. . . . Any forms where option 2 has been completed will be referred to the Title IX Office who will investigate and determine appropriate steps.”¹⁶ Here, the College indicates that any athletics-related Title IX issue will be referred to the Title IX Office, but there is no other information about what this form is, what questions it asks, or what marking “option 2” means. Moreover, the page does not specify who specifically students will be connected to in the Title IX Office, what information they will be expected to provide, or how long this process will take. The Title IX Attestation form itself is also not available on the website. Without any coherent statement as to what protections Title IX offers to student-athletes, it is unclear whether student-athletes at Occidental are even aware of their rights or how to enforce them.

EADA Report

Overall, Occidental College’s 2022 EADA report (the most current available) reflects overwhelming opportunity, support, and funding for female athletes in comparison to male athletes. The report reveals slight imbalances regarding the proportion of women’s versus men’s participation in athletics, but it seems to track the overall composition of the number of women versus women enrolled at the College generally. In addition, Occidental spends more money on

¹⁴ OCCIDENTAL COLL., OCCIDENTAL COLLEGE SEXUAL & INTERPERSONAL MISCONDUCT POLICY 4, 62 (Jan. 1, 2024) (emphasis added), chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.oxy.edu/sites/default/files/assets/title_IX/Sexual%20and%20Interpersonal%20Misconduct%20Policy%201.1.24_0.pdf [hereinafter SEXUAL & INTERPERSONAL MISCONDUCT POLICY].

¹⁵ OCCIDENTAL COLL., OCCIDENTAL COLLEGE DISCRIMINATION, HARASSMENT & RETALIATION POLICY 4, 34 (Jan. 1, 2024), chrome-

extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.oxy.edu/sites/default/files/assets/title_IX/Discrimination%20%20Harassment%20and%20Retaliation%20Policy%201.1.24.pdf [hereinafter DISCRIMINATION, HARASSMENT & RETALIATION POLICY].

¹⁶ *List of Student-Athlete Compliance Forms*, OXY ATHLETICS, <https://oxyathletics.com/sports/2023/8/18/list-of-student-athlete-compliance-forms.aspx> (last visited Apr. 14, 2024).

women's sports than men's sports, which likely does not reflect the vast majority of Division III athletic programs across the United States.

Occidental's total undergraduate population is 1,913 students, comprised of 1,131 women and 782 men. Women make up about 59% of the student body while men make up the other roughly 41%. The breakdown of male versus female student-athletes tracks relatively closely to the number of men and women in the overall undergraduate population. The unduplicated counts are 179 male student-athletes and 196 female student-athletes, which means there are 372 student-athletes total at Occidental College.¹⁷ Unlike other schools, Occidental does not report any male practice players on female teams. Per the unduplicated numbers, women participate in athletics at a rate of about 52% while men participate at a rate of about 48%. Thus, there is roughly a 7% imbalance in proportionality when compared to overall undergraduate enrollment.

The EADA breakdown of participation by sport (included below) notes slight imbalances between men and women. The College offers eleven varsity sports, most of which provide opportunities for both men and women (soccer, track, swimming, basketball, golf, tennis, and water polo). Only lacrosse and volleyball are offered exclusively for women. Interestingly, for the varsity sports offered to both genders, there are consistently more male than female participants. The largest discrepancy can be seen between the number of male and female track athletes—with seventy-four male participants and only sixty female participants. The discrepancy between baseball and softball is also notable, with baseball having thirty-two participants and softball having only eighteen. Golf, tennis, soccer, basketball, and water polo also have more male than female athletes, but those discrepancies are less notable. Swimming and Diving is the only sport with more female than male participants.

¹⁷ The unduplicated count means a head count of all the participants on at least one varsity team, by gender. The Department of Education's User's Guide for the Equity in Athletics Disclosure Act Web-Based Data Collection indicates that "[i]f an individual participates on more than one varsity team, include that individual only once in your unduplicated count." U.S. DEP'T EDUC., OFF. POSTSECONDARY EDUC., USER'S GUIDE FOR THE EQUITY IN ATHLETICS DISCLOSURE ACT WEB-BASED DATA COLLECTION 30 (Sept. 2022), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://surveys.ope.ed.gov/athletics2022/wwwroot/documents/2022_EADA_Users_Guide.pdf.

Participants

Athletics Participation

Varsity Teams	Number of participants as of the day of the first scheduled contest	
	Men's Teams	Women's Teams
Baseball	32	N/A
Basketball	17	14
All Track Combined	60	74
Golf	12	10
Lacrosse		20
Soccer	27	26
Softball	N/A	18
Swimming and Diving	18	22
Tennis	13	11
Volleyball		11
Water Polo	21	17
Total Participants Men's and Women's Teams	200	223
Unduplicated Count of Participants (Number of individuals who participated on at least one varsity team.)	179	196

The College's athletic budget also devotes more money to women's sports than men's sports. As a Division III school, student-athletes do not receive any athletic-related student aid to attend the College. In terms of recruiting, Occidental College spends \$20,668 on men's teams and \$34,067 on women's teams. This represents a roughly \$13,000 difference in favor of the women's teams, which could be explained by the fact that lacrosse and volleyball are offered exclusively for women. It is also unclear from the recruiting data how track and swimming/diving (co-ed sports teams) are allocated for in these numbers. The largest discrepancy between men's and women's sports, however, can be seen by comparing the operating expenses per team. The men's teams average around \$374,098 while the women's teams average around \$452,896—a difference of \$78,798. Again, this may be due to the fact that Occidental offers two teams exclusively for women with no male counterpart.

In terms of adding or removing teams, Occidental College recently cut its football program in 2021.¹⁸ Because football often has a profound impact on college athletic budgets, I compared the 2019 EADA data against the current data to see if there were any differences in the amount spent on women's versus men's sports.¹⁹ Indeed, the football team's operating expenses alone in 2019 were \$93,818—the largest of any male sports team that year. The overall expense breakdown by gender was \$314,534 spent on men's teams and only \$215,729 spent on women's teams,

¹⁸ Archives, OXY ATHLETICS, <https://oxyathletics.com/sports/2023/8/9/fb-archives.aspx> (last visited Apr. 14, 2024).

¹⁹ 2019 was the last year that the football team played a full season, as 2020 and 2021 were canceled due to the COVID-19 pandemic.

reflecting a roughly \$100,000 difference in spending. With the operating budget for women's teams nearly doubling between 2019 and 2022, the data suggests that Occidental's cutting of the football program played a large part in allowing more financial resources to be allocated to women's sports. It will be interesting to see, going forward, whether Occidental looks to add any male sports teams in an effort to better equalize participation and funding within athletics.

Transgender Athletes

Occidental College has not issued any policy or statement regarding transgender athletes. The College has robust resources for trans students, including a specifically designated "Queer & Trans Guide," but it makes no mention of athletics.²⁰

Name, Image, and Likeness Policy

The College issued an official NIL policy consistent with both California law and the NCAA's NIL policy. Overall, Occidental College supports student-athletes receiving compensation for the use of their name, image and likeness.²¹ The policy clarifies that student-athletes undertaking NIL deals must first disclose to the College (1) the contact information of all parties involved in the use of the student's NIL, and (2) any compensation arrangements related to the student's NIL and details about their relationship with the involved parties.²² The policy also identifies restrictions on NIL arrangements, including that they may not conflict with any of the College's existing sponsorship agreements, cause the student to be absent from required educational or team obligations, or involve "prohibited activities," such as gambling, adult entertainment, alcohol, or tobacco. Finally, the policy makes clear that neither the College nor any of its employees are permitted to be involved "in the development, operation or promotion of any student athlete's NIL activities." Although the policy does not explicitly mention Title IX, this provision is likely the College's way of absolving itself from Title IX liability.

Complaints or Investigations

There are no recorded complaints or investigations of Occidental College in athletics.²³

²⁰ *Queer & Trans Guide*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/sexual-respect-title-ix/resources/queer-trans-guide> (last visited Apr. 14, 2024).

²¹ OCCIDENTAL COLL., OCCIDENTAL ATHLETICS NIL POLICY, https://oxyathletics.com/documents/2023/9/20/Occidental_Athletics_NIL_Policy.pdf (last visited Apr. 14, 2024).

²² The policy mandates that student-athletes disclose their proposed NIL activities to the College at least seven days prior to committing to such activities. *Id.*

²³ *Pending Cases*, *supra* note 11.

Sexual Misconduct

Coordinator for Sexual Misconduct

Occidental College does not have a specific Title IX coordinator for sexual misconduct. Instead, Alexandra Fulcher, the overall Title IX coordinator, handles all reports and investigations related to sexual misconduct.²⁴ In addition to Ms. Fulcher, Andrea Boyle also works in the Civil Rights & Title IX Office as the Case & Support Manager for the College.



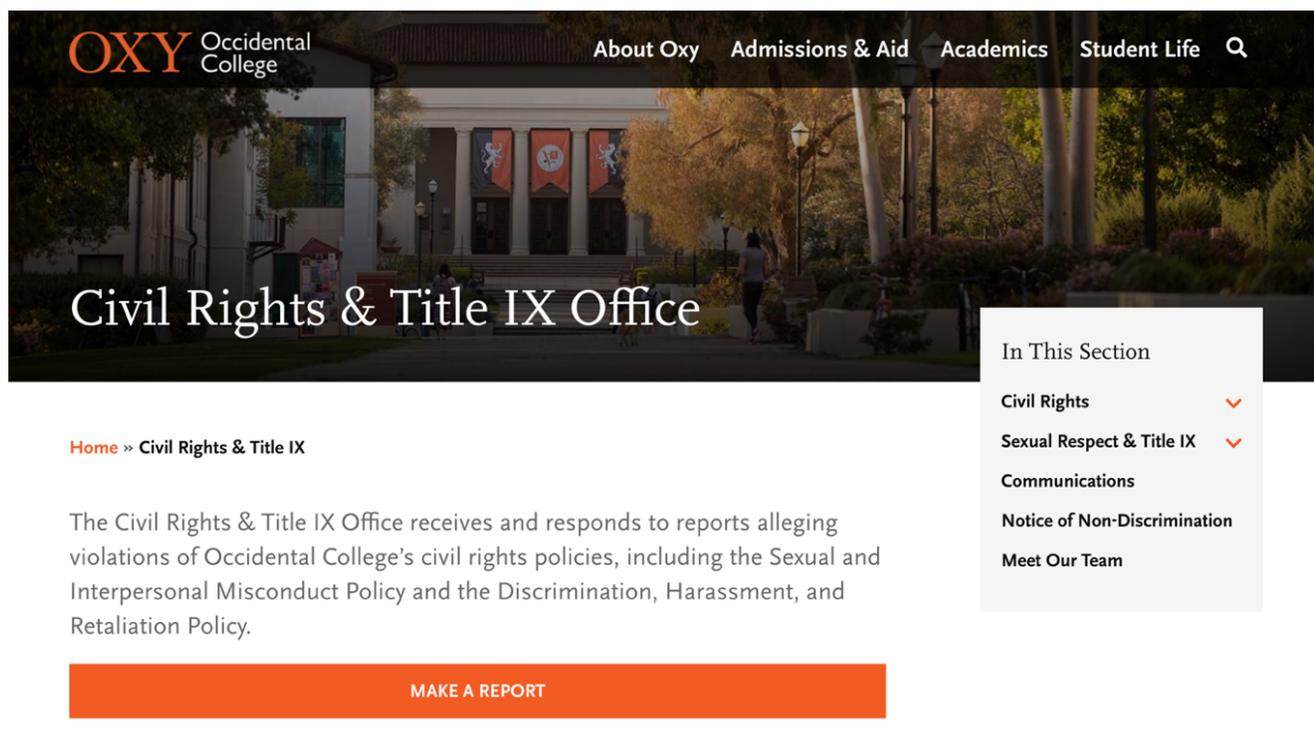
Filing a Complaint or Lodging a Concern

The College provides several web pages with information about filing a complaint or lodging a concern over instances of sexual misconduct. Immediately upon accessing the Civil Rights & Title IX Office home page, one will see a link to make a Title IX Report (see below). Clicking “Make a Report” redirects to a blank form with space for the individual to provide information, including their name, the date of the incident, the location of the incident, involved parties, and then a description of the incident.²⁵ There is also an option to upload photos, videos, or emails. The form specifies that individuals are not required to provide answers to every question in order to submit a complaint. Moreover, the form indicates that its purpose is to “provide students, faculty, staff and administrators with an online method to report specific information related to an alleged incident(s) of discrimination or harassment (including sexual misconduct and sexual violence), date

²⁴ Photo available at: Lily Snyder, *New Required Training Bridges Gap Between Student and Worker Experience*, THE OCCIDENTAL (Oct. 4, 2023), <https://theoccidentalnews.com/news/2023/10/04/new-required-training-bridges-gap-between-student-and-worker-experience/2909639>

²⁵ *Civil Rights & Title IX Office Reporting Form*, OCCIDENTAL COLL., https://cm.maxient.com/reportingform.php?OccidentalCollege&layout_id=42 (last visited Apr. 14, 2024).

and domestic violence, stalking, sexual exploitation or retaliation.” Interestingly, there is no mention of athletics for reporting purposes.



On the same home page (see above), the College includes a neatly organized sidebar with several tabs. Under the “Sexual Respect & Title IX” tab, there is an additional drop down with options that include “How to Report,” “Policies & Procedures,” “FAQs,” “Resources,” and more. Clicking “How to Report” redirects to a web page labeled “Reporting Options,” where Occidental provides even more information about the various methods for reporting sexual misconduct. At the top of the page is a message stating: “Oxy encourages everyone to report all forms of sexual misconduct to the College and/or to the police. Making a report means telling someone in authority what happened – in person, by phone, in writing, or by email or text.” The College appears to organize its reporting options into three categories: (1) emergency reporting options, (2) on-campus reporting options, and (3) anonymous reporting options (though this organizational structure is not immediately clear from the website).

Under emergency reporting options, the College provides the contact information for the Los Angeles Police Department, the San Gabriel Valley Medical Center, the LA County/USC Medical Center, and the Rape Treatment Center at Santa Monica-UCLA Medical Center. The College

clarifies that the last three emergency reporting options listed are designated Sexual Assault Response Team Centers.²⁶

The page also includes on-campus reporting options, starting with information about the College's mandatory reporting requirements for "Responsible Employees." The page indicates that "[w]hen you tell any faculty, staff, administrator or residence hall staff what happened, they are required to notify the Civil Rights & Title IX coordinator."²⁷ Following this statement is a link that redirects to the same blank reporting form mentioned above. Other on-campus reporting options include meeting with Ms. Fulcher (a link to schedule a meeting with her is included), contacting Campus Safety (24/7 emergency phone number included), and reaching out to the Dean of Students, who can provide "reasonable accommodations for housing, academic flexibility and no contact letters."²⁸ The Dean of Students' location and phone number is also provided.

Finally, the page offers anonymous reporting options, understanding that not all students may be ready to talk to the Civil Rights & Title IX Office about their experience. Confidential reporting options include: the College's Survivor Advocate, who can accompany survivors to a rape treatment center or any other medical services; a 24/7 Confidential Crisis Hotline; Emmons Student Wellness Center, which provides confidential psychological counseling for survivors; and the Office for Religious & Spiritual Life, which can offer spiritual guidance and support via ordained clergy. Associated with each option is the appropriate contact information. The page also links to an anonymous reporting form, where students can provide information about the date of the incident, location, parties involved, etc. without having to disclose their name.²⁹ The College makes clear that students do not need to share the identity of the "other person" or file a formal complaint in order to learn about their rights and options.

Outside of these three reporting options, the College also offers "Community Resources" under the "Resources" tab of the "Sexual Respect & Title IX" drop-down. Within the four walls of the College is Project Safe, a support program dedicated to ending sexual violence on campus. The "Resources" page links directly to the Project Safe home page, which has more information about peer advocates, staff advocates, and others who can help a survivor of sexual misconduct better understand what their options are and choose a course of action that suits their needs.³⁰ External community resources include: the Rape, Abuse and Incest National Network (RAINN) (a confidential, anonymous national sexual assault hotline); the LA Rape and Battering hotline (a confidential 24/hour crisis line); Peace Over Violence (a program where case managers can provide assistance and support to survivors by accompanying them to medical and/or legal proceedings); the LA Gay and Lesbian Center (which offers advocacy and support to LGBTQ

²⁶ *Reporting Options*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/sexual-respect-title-ix/reporting-options> (last visited Apr. 14, 2024).

²⁷ *Id.* (emphasis omitted).

²⁸ *Id.*

²⁹ *Sexual Violence Anonymous Reporting Form*, OCCIDENTAL COLL., https://cm.maxient.com/reportingform.php?OccidentalCollege&layout_id=10 (last visited Apr. 14, 2024).

³⁰ *Project S.A.F.E.*, *supra* note 10.

survivors of sexual violence); and finally, the California Women’s Law Center (which has attorneys available to serve as an advisor to complainants who are filing Title IX sexual assault/harassment/gender discrimination complaints and going through the Occidental College resolution process).

Finally, the College’s official Sexual and Interpersonal Misconduct Policy provides much of this same information about how to report sexual misconduct.³¹ The policy perhaps goes one step further to include resources for reporting to external agencies. However, this information is buried inside the College’s official policy, available under a different tab, and is presented in a paragraph format, which makes it less accessible and digestible than other resources on the website.

The Investigative Process

Outside of the College’s official Sexual & Interpersonal Misconduct Policy, the only information about the investigative process appears on the “Reporting Options” page under the Civil Rights & Title IX Office’s “Sexual Respect and Title IX” tab. There, the College clarifies that the Civil Rights & Title IX Coordinator will reach out to the complainant to offer support services and inform them of the steps the College can take to address their situation. To access the official policy (which has more information), one must direct themselves to the “Policies and Procedures” page under the “Sexual Respect and Title IX” tab.³²

The Initial Assessment

Before deciding how to proceed, the Civil Rights & Title IX Office will conduct an “initial assessment.” After a report is filed, the Office gathers information about the reported conduct and responds to any immediate health or safety concerns raised by the report, including by providing counseling or no-contact directives. The Title IX Office will also request a meeting with the complainant to provide information about the investigative process should they choose to file a formal complaint and further explain their rights.³³ The policy does not include a time frame for which this initial contact shall take place after the report is made.

At the conclusion of the initial assessment, the College will proceed in one of four ways: (1) conduct an investigation if a formal complaint has been filed; (2) utilize an “Adaptable Resolution” process; (3) refer the matter to the appropriate office if it is determined to be outside the scope of the College’s policy; or (4) close the report with the option to re-open it at another time if the

³¹ SEXUAL & INTERPERSONAL MISCONDUCT POLICY, *supra* note 14, at 22.

³² *Policies & Procedures*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/sexual-respect-title-ix/policies-procedures> (last visited Apr. 14, 2024).

³³ SEXUAL & INTERPERSONAL MISCONDUCT POLICY, *supra* note 14, at 31–32.

complainant requests resolution or if the College subsequently determines there is a need to further investigate the alleged misconduct.³⁴

The Investigation

An investigation only begins if a formal complaint has been filed. Interestingly, a formal complaint can be filed either by the complainant themselves or by the Civil Rights & Title IX Coordinator without the complainant's consent. The College's policy indicates that the Title IX Coordinator should consider "the totality of the known circumstances" (among other factors) when deciding whether to honor a complainant's request that no investigation be pursued, but the decision ultimately lies in the Coordinator's discretion.³⁵ After the filing of a formal complaint, the Office will first determine whether the alleged conduct, if proven to be true, would in fact constitute a violation of Title IX. If so, the Coordinator will then provide written notice to the parties involved, naming the specific misconduct alleged to have occurred, requesting a meeting with all parties, and naming the Investigator. Occidental's policy does not provide a named Investigator appointed to all Title IX investigations, but it includes a list of requirements individuals must complete before becoming an Investigator.

After the initial meeting, the Investigator will conduct interviews with all relevant parties and witnesses. The investigation process typically lasts up to thirty days. At the conclusion of all interviews and fact gathering, the Investigator will provide each party the opportunity to review all of the evidence that is directly related to the allegations. Each party has ten business days to respond to the evidence or request further investigation. If the Investigator determines that no further investigation is warranted, they will compile their findings along with the parties' responses into a report. The Civil Rights & Title IX Coordinator will then review the report, and upon determining its finality, provide each party with a Notice of Hearing.

The Hearing

The Notice of Hearing will include the date of the hearing, the identity of the Hearing Officer, and any deadlines for submission of evidence, names of witnesses, or questions to be reviewed by the Hearing Officer to ensure relevance. The Hearing Officer will be an individual selected by the College, other than the Investigator or Civil Rights & Title IX Coordinator. The Hearing Officer will have received annual training regarding the College's policies and procedures, the handling of student sexual misconduct cases, and other relevant issues. The parties have three business days to object to the Hearing Officer on the basis of an actual bias or conflict of interest.

The hearing must occur within ten business days from the date the Notice of Hearing is provided. The hearing is conducted via videoconference and only the Hearing Officer,

³⁴ *Id.* at 32–33.

³⁵ *Id.* at 34.

complainant, respondent, and one advisor for each of them are permitted to attend. The complainant, respondent, and Hearing Officer all have the right to call witnesses. The respondent’s advisor is permitted to question the complainant, and the complainant’s advisor is permitted to question the respondent.³⁶ No party is permitted to ask questions of the other party, or even of another witness—only the advisor or Hearing Officer may do so. The standard for determining whether the respondent is responsible for a violation is the preponderance of the evidence standard.³⁷ Within fifteen days of the hearing, the Hearing Officer will provide a written determination regarding responsibility and any sanctions to each party involved. Appeals may be filed to the Civil Rights & Title IX Office on specified grounds following the issuance of sanctions and remedies.

An Alternative Remedy: The Adaptable Resolution Process

The Adaptable Resolution process is a “voluntary, remedies-based, structured interaction between or among affected parties that balances support and accountability without taking formal disciplinary action against the respondent.”³⁸ The goal of the process is to allow the respondent to acknowledge the harm they caused and accept responsibility for repairing harm both to the individual and to the College community as a whole. In addition to needing the consent of both parties, the Civil Rights & Title IX Coordinator will review the matter to confirm it is of the type that would be “appropriate for an adaptable resolution process.”³⁹ The College will assign a “trained coordinator” to facilitate the process. The parties may then agree to engage in a restorative exercise, including a facilitated dialogue, a restorative circle, a shuttle negotiation, or a circle of accountability. As a result of the adaptable resolution process, the respondent may be subject to alcohol education classes, regular meetings with the College, permanent extension of a no-contact order, counseling sessions, etc. The process ends with the Civil Rights & Title IX Coordinator’s approval of a written agreement between the parties.

Comments and Concerns

Overall, Occidental College seems to have robust policies and procedures for resolving reports of sexual misconduct. The College has adopted an affirmative consent policy as well, which ultimately provides the most protection against sexual violence.⁴⁰ I also appreciate its Adaptable Resolution Process because it recognizes that response to sexual misconduct does not take a one-size-fits-all approach—the formal, adjudicatory process may not be for everyone, and it is important to provide other options. However, I note two important critiques of the College’s policy: (1) allowing the Civil Rights & Title IX Officer to unilaterally file a complaint without the

³⁶ *Id.* at 44–45 (clarifying that the role of the advisor is to ask questions of the other party and of witnesses, but not to advocate for or otherwise speak on behalf of the advisee during the hearing). The College will provide a party with an advisor if they do not have one. *Id.* at 45.

³⁷ *Id.* at 36.

³⁸ *Id.* at 57.

³⁹ *Id.*

⁴⁰ *Id.* at 14–17.

consent of the survivor denies them autonomy over the process and potentially forces them into an uncomfortable or unsafe situation with the respondent; and (2) there is little information as to who the Investigator or Hearing Officer may be.

With respect to the first criticism, the College directs the Civil Rights & Title IX Officer to consider “the totality of the known circumstances” when deciding whether to pursue an investigation without the survivor’s consent. Factors to consider include the level of risk posed to the individual, whether there have been other reports of misconduct against the respondent, fairness to both parties, the nature and scope of the alleged conduct, and “whether there is a power imbalance between the complainant and respondent.”⁴¹ While all important considerations, this standard is extremely subjective and leaves the Coordinator with too much discretion to impart their own judgments about what is best for the survivor. I can appreciate the College’s desire to ensure that other students on campus are not harmed in the future if the respondent has faced multiple reports of misconduct, for example, but forcing the survivor to go through a process they do not feel comfortable with denies them autonomy and control over an already traumatic situation. In these instances, the College should consider whether there are other means to obtain relevant evidence about the respondent or offer to preserve the anonymity of the survivor if possible.

The second criticism goes directly to the potential bias or prejudice of the Investigator or Hearing Officer. The College’s policy provides that the Investigator will be an “internal or external” individual.⁴² The Hearing Officer will be an individual “other than the Investigator or Civil Rights & Title IX Coordinator” selected by the College.⁴³ Both individuals are required to have completed extensive training prior to assuming these roles. However, there is no other information about how the College selects these individuals or its process for determining whether the individual should be internal or external to the College. What factors does it consider? Utilizing internal individuals for either role would likely be problematic considering the fact that Occidental is comprised of only 1,913 students. It is therefore very likely the individual would personally know or know of the parties involved. The policy tries to combat this by offering parties three days to object to either the Investigator or Hearing Officer on the basis of bias or conflict, but this too is a subjective process and there is no guarantee the conflicted individual will be removed. Moreover, students who do know the Investigator or Hearing Officer may decide they are uncomfortable speaking up and wish to retract their complaint. To ensure fairness throughout the entire process, the College should use external individuals for these roles who do not have any affiliation with Occidental.

⁴¹ *Id.* at 34.

⁴² *Id.* at 54.

⁴³ *Id.* at 50.

Retaliation Policy

The College has a separate Discrimination, Harassment, and Retaliation Policy under the “Civil Rights” tab of the Civil Rights & Title IX Office home page. The Retaliation Policy can be found under “Prohibited Conduct and Definitions,” and provides that:

Retaliation includes adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy. Adverse action includes conduct that threatens, intimidates, harasses, coerces, or that seeks to discourage a reasonable person from engaging in activity protected under this Policy. Retaliation can be committed by or against any individual or group of individuals, not just a Complainant or Respondent. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct. Retaliation may be present even where there is a finding of “no responsibility” with respect to the allegations of Prohibited Conduct.⁴⁴

The Retaliation Policy applies broadly—beyond just Title IX—but reports should be made to Ms. Fulcher, the Civil Rights & Title IX Coordinator. Moreover, the policy indicates that the College will take “immediate and responsive action” to any report of retaliation. Those found in violation of the policy will be subject to disciplinary action “as appropriate.”

Clery Act Statistics

Clery Act statistics for Occidental College are located on the Department of Education’s Campus Safety and Security database. “Criminal Offenses” data is broken down into three categories: (1) on-campus, (2) on-campus student housing facilities, and (3) off-campus. Only data pertaining to sexual misconduct is discussed here. On campus, there have been eleven rapes between 2020–2022 (one in 2020, six in 2021, and six in 2022). This is the highest instance of reported crime within the report. There have also been six reports of fondling between 2020–2022 and one report of statutory rape in 2022. In on-campus student housing facilities, there have been ten rapes between 2020–2022 (one in 2020, five in 2021, and four in 2022). There were four instances of fondling in 2021 alone and one report of statutory rape in 2022. Off campus, there are no statistics for sexual misconduct.⁴⁵

The Department of Education also requires reporting of VAWA statistics, which is similarly broken down into (1) on-campus, (2) on-campus student housing facilities, and (3) off-campus. Between 2020–2022, on campus, there has been one report of dating violence and twenty reports

⁴⁴ DISCRIMINATION, HARASSMENT & RETALIATION POLICY, *supra* note 15, at 8–9.

⁴⁵ *Get Data for One School*, CAMPUS SAFETY & SEC., U.S. DEP’T EDUC., <https://ope.ed.gov/campusafety/#/institution/details> (last visited Apr. 14, 2024).

of stalking. In on-campus student housing facilities, there has been one report of dating violence and eight reports of stalking. Finally, off campus, there is no VAWA data.⁴⁶

End Rape on Campus also has data for Occidental College. The profile covers the sum total of incidents reported over the course of three years (2018–2020) recorded via four different reporting mechanisms: (1) on-campus, (2) non-campus, (3) public property, and (4) reported by local police. The report notes nineteen rapes within this time period, eight fondlings, one instance of domestic violence, two instances of dating violence, and four instances of stalking.⁴⁷

Pregnancy

Resources and Compliance Obligations

When it comes to resources for pregnant students, Occidental has very little information available. A Google search with the terms “Occidental College Title IX pregnancy,” yields only three relevant results, none of which are to the Civil Rights & Title IX Office’s home page.

The first pertains to class absences due to illness or extenuating circumstances. From the College’s home page, one has to click into the “Student Handbook” tab, then into the “General College Policies” tab, and then into the “Class Absence Due to Illness or Extenuating Circumstances” tab to locate this information, making it largely inaccessible in the first place. At the bottom of this page is a section dedicated to “[s]tudents who are pregnant or who are parents.” The page indicates that pregnant students who need to miss class for medical appointments or related conditions should disclose such information to the Dean of Students. Students needing to miss class for extended periods of time either due to their own health or the health of their children are encouraged to submit a doctor’s note. The page states that the Dean of Students will work with students so they can still fulfill their academic requirements. The page ends with a link to the College’s Sexual and Interpersonal Misconduct Policy and a reminder to students that discrimination or harassment on the “basis of pregnancy or related conditions” is prohibited.⁴⁸

The second search result is the College’s posted notice of non-discrimination. The “Non-Discrimination” page falls under the Civil Rights & Title IX Office’s website. There, “pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions” are expressly included within the definition of discrimination on the basis of sex.⁴⁹ The page makes clear that

⁴⁶ *Id.*

⁴⁷ *Occidental College, END RAPE ON CAMPUS* (Aug. 18, 2023), <https://endrapeoncampus.org/school-locator/?schoolsearch=Occiden>.

⁴⁸ *Class Absence Due to Illness or Extenuating Circumstances*, OCCIDENTAL COLL., <https://www.oxy.edu/student-handbook/general-college-policies/class-absence-due-illness-or-extenuating-circumstances> (last visited Apr. 14, 2024).

⁴⁹ *Notice of Non-Discrimination*, OCCIDENTAL COLL., <https://www.oxy.edu/civil-rights-title-ix/notice-non-discrimination> (last visited Apr. 14, 2024).

such discrimination “is prohibited in Occidental’s educational programs and activities” as required by Title IX. At the bottom of the page is a link to the College’s official non-discrimination policy, reporting resources, and Ms. Fulcher’s contact information. Interestingly, the “Student Handbook” web page mentioned above also includes a non-discrimination statement, but that one makes no mention of pregnancy in relation to sex discrimination.⁵⁰

The final search result is to the “Health & Safety” page, which is buried under the “Policy Directory” tab of the College’s home page. Here, students are advised that Emmons Wellness Center offers women’s health services, including gynecological care, pregnancy tests, birth control, confidential HIV testing, and counseling.⁵¹

While the College appears to be meeting its basic obligations to pregnant students (i.e., accommodating absences), it could be doing more to assist them. To start, it would be helpful to have all of the information under one web page, perhaps falling under the Civil Rights & Title IX Office or the Emmons Student Wellness Center. As it stands now, protections for pregnant students are scattered all over the College’s website, and it would take the student going through the various policies and pages to piece together what rights they do have if choosing to remain pregnant while in school. Moreover, Emmons Well Center could provide more information about resources available to pregnant students, such as who to speak to, where to obtain care, or how to go about navigating pregnancy alongside academic or athletic commitments.

Complaints or Investigations

There have been no recorded complaints or investigations against Occidental College for its handling of pregnant students.⁵²

⁵⁰ *Student Handbook 2023–2024*, OCCIDENTAL COLL., <https://www.oxy.edu/student-handbook> (last visited Apr. 14, 2024).

⁵¹ *Health & Safety*, OCCIDENTAL COLL., <https://www.oxy.edu/college-policies/health-safety> (last visited Apr. 14, 2024).

⁵² *Pending Cases*, supra note 11.

LGBTQ Resources

Protections and Resources

Occidental’s resources for its LGBTQIA+ students are robust and extensive. From the website alone, it is clear that Occidental is firmly committed to protecting its LGBTQIA+ students and fostering a community of inclusion. The College includes most of its resources on the “Queer & Trans Guide” page (see below) which falls under the “Sexual Respect & Title IX” tab of the Civil Rights & Title IX Office website.

Queer & Trans Guide

[Home](#) » [Civil Rights & Title IX](#) » [Sexual Respect & Title IX](#) » [Resources](#) » [Queer & Trans Guide](#)



In This Section

- Civil Rights** ▾
- Sexual Respect & Title IX** ▾
 - Resources ▾
 - Emergency Help
 - Supporting a Friend/Student
 - Queer & Trans Guide
 - Reporting Options
 - Policies & Procedures
 - FAQs
 - Training & Education
 - Campus Committee on Sexual Responsibility & Misconduct ▾
- Communications**
- Notice of Non-Discrimination**
- Meet Our Team**

The Guide begins with the following statement: “We recognize that community members who identify as LGBTQIA+ experience higher levels of discrimination and psychological distress than their heterosexual and cisgender peers. Occidental strives to create a safe and compassionate campus community where all members feel welcomed, and can participate in the college experience fully without intimidation or bias.”⁵³

⁵³ *Queer & Trans Guide*, *supra* note 20.

The College first provides information about gender-neutral housing. The Residential Education and Housing Services Program offers several housing options not restricted to “traditional limitations of the gender binary,” including five on-campus dorms and three off-campus houses, one of which is called “Queer House.” Next on the page is information about the College’s “Lived Name Policy,” which allows employees and students to use their lived name on ID cards, OxyNet usernames and email addresses, internal campus directories, business cards, and public-facing Oxy websites. Moreover, the College provides a comprehensive list of all gender-inclusive restrooms on campus (see below).

The College also offers resources for LGBTQIA+ students studying abroad in locations where “levels of tolerance, acceptance, and support for LGBTQIA+ individuals differ greatly from culture to culture.”⁵⁴ With a direct link to Occidental’s International Programs Office, there is a tab for “LGBTQIA+ Identifying People” specifically. Students are encouraged to become educated on the legal and cultural issues facing LGBTQIA+ people in their host culture. The College provides contact information for international LGBTQIA+ support groups and links directly to the U.S. Department of State’s policy on what LGBTQIA+ individuals can do to ensure they are safe while traveling. In addition, the College includes a link to TSA’s policy on transgender travelers.

The Queer & Trans Guide also dedicates space to health insurance, recognizing that LGBTQIA+ individuals may have different needs with respect to coverage. The page indicates that Oxy’s health insurance for employees covers services such as hormone therapy and gender affirming surgeries, while student health insurance covers hormone therapy alone. Finally, the Guide concludes with a link to make a report for discrimination or harassment (which redirects to the same reporting options that are available for sexual misconduct) and off-campus resources. Off-campus resources include links and contact information for the National Center for Transgender Equality, Campus Pride, the

Occidental College Gender-Inclusive Restrooms

Residence Halls

- Bell Young Hall**
2 gender-inclusive, single-occupancy
Near 2nd floor common area
3rd floor restroom
- Berkus Hall**
1 gender-inclusive, single-occupancy
1st floor in REHS office
- Braun Hall**
1 gender-inclusive, single-occupancy
Near 3rd floor common area
- Chilcott Hall**
All restrooms are gender inclusive
- E. Norris Hall North**
Gender-inclusive restrooms in each quad
- Erdman Hall**
1 gender-inclusive, single-occupancy
Near 1st floor common area
- Haines Hall**
All restrooms are gender inclusive
- Newcomb Hall**
All restrooms are gender inclusive
- Pauley Hall**
1 gender-inclusive, single-occupancy
2nd floor
2nd floor multiple-occupancy restroom is also gender inclusive
- Stearns Hall**
All restrooms are gender inclusive
- Wylie Hall**
1 gender-inclusive, single-occupancy
1st floor near common area

Other Buildings

- ACC Administrative Center**
2 gender-inclusive, single-occupancy
3rd floor
- Athletics Office**
2 gender-inclusive, single-occupancy
- Bioscience Building**
2 single-sex, single-occupancy
1st floor
- Booth Hall**
2 gender-inclusive, single-occupancy
Off of courtyard
- Collins House**
4 gender-inclusive, single-occupancy
2 each on 1st and 2nd floors
- Emmons Wellness Center**
4 gender-inclusive, single-occupancy
- Fowler Hall**
2 gender-inclusive, single-occupancy
4th floor
- Hill Side Theater/ Tree House**
2 gender-inclusive, single-occupancy
1 each on north/south ends
- Intercultural Community Center**
2 gender-inclusive, single-occupancy
1 each on 1st and 2nd floors
- Johnson Hall**
3 gender-inclusive, single-occupancy
2 on 1st floor and 1 on 4th floor
- Johnson Student Center**
1 gender-inclusive, single-occupancy
1st floor

Gender-inclusive - not designated as male or female

Single-sex - designated as male or female

Single-occupancy - designed for use by one person at a time

- Mary Norton Clapp Library**
2 gender-inclusive, single-occupancy
2nd floor new wing
2 single-sex, single-occupancy
3rd floor old wing
- Moore Lab**
2 gender-inclusive, single-occupancy
1st floor
- Mullin Studio**
2 gender-inclusive, single-occupancy
- Norris Chemistry**
1 gender-inclusive, single-occupancy
3rd floor
- Psychology Lab**
1 gender-inclusive, single-occupancy
- Thorne Hall**
2 gender-inclusive, single-occupancy
Ground floor
(Telefund and Literacy Center)
- UEPI**
4 gender-inclusive, single-occupancy
1 on 1st floor and 3 on 2nd floor
- Weingart Center**
4 gender-inclusive, single-occupancy
1 each on 1st and 2nd floors

⁵⁴ *Equity, Inclusion & Justice*, OCCIDENTAL COLL., <https://www.oxy.edu/academics/global-engagement/international-programs/equity-inclusion-justice> (last visited Apr. 14, 2024).

Transgender Law Center, the Human Rights Campaign, and the Los Angeles LGBT Center, among others. Each group provides advocacy or support to LGBTQIA+ individuals.

Outside of the Civil Rights & Title IX Office, Occidental has a separate “LGBTQIA+ Support” tab under the “About Oxy Heading” of its home page. Here, two additional resources can be located. The Lavender Lounge is an on-campus space for “LGBTQIA+ identifying folks . . . to feel a sense of belonging, build community, and engage with educational, supportive, and intersectional programming.”⁵⁵ The College opened the Lavender Lounge in 2008 as part of its commitment to encourage more queer student leaders and celebrate the identities and accomplishments of its LGBTQIA+ students. The College also has a separate Center for Gender Equity to “address the needs of women, men, non-binary, agender, and transgender members on campus by providing support, advocacy, and programming that promotes awareness, personal empowerment, mutual respect, and equity.”⁵⁶ Information about the physical location of each space on campus is also included on these pages.

Recommendations

Accessibility of Information

1. **Create “Athletics” Tab Under Civil Rights & Title IX Office Home Page and “Title IX” Tab Under Oxy Athletics Website:**

First and foremost, the Civil Rights & Title IX Office home page should have a separate tab dedicated specifically to athletics. As mentioned above, many student-athletes at Occidental likely are unaware that Title IX applies to them from looking at the website alone. The “Athletics” tab should begin with a statement of the law, making it clear that Title IX covers athletics. The page should also include the names and contact information for Title IX personnel who can assist student-athletes with questions or filing a report. The “Make a Report” link available under other tabs should be available on this page as well. The College should also look to develop a detailed policy on Title IX and athletics and link it directly to this page.

The Oxy Athletics website should be updated as well. Under the “Inside Athletics” drop down, there should be a page titled “Title IX.” This page should similarly state the law, making it clear that Title IX covers athletics. There should also be a statement reflecting the College’s commitment to upholding equality in its athletic programs. This page should inform students that they can find more specific information about who to speak to or filing a claim under the “Athletics” tab of the Civil Rights & Title IX Office home page, and link directly to that page so it is easily

⁵⁵ *Lavender Lounge*, OCCIDENTAL COLL., <https://www.oxy.edu/about-oxy/equity-justice/lgbtqia-support/lavender-lounge> (last visited Apr. 14, 2024).

⁵⁶ *Center for Gender Equity*, OCCIDENTAL COLL., <https://www.oxy.edu/about-oxy/equity-justice/lgbtqia-support/center-gender-equity> (last visited Apr. 14, 2024).

accessible. At a minimum, the Oxy Athletics website should inform student-athletes of their rights under the law.

2. Reorganize the “Reporting Options” Page Under the Civil Rights & Title IX Office’s “Sexual Respect” Tab:

Overall, Occidental provides a great deal of information about the different ways students can report sexual misconduct. However, it could be organized in a more coherent fashion. As it currently stands, there appear to be three buckets of reporting options: (1) emergency reporting options, (2) on-campus reporting options, and (3) anonymous reporting options. While the page includes headings for each option, the information is not neatly organized under each respective heading. The very top of the page should make clear that there are generally three ways to report a violation, with the options labeled (1)–(3), and the various resources should be bulleted underneath them. The College should also, on this page, reference the Community Resources mentioned above instead of including them under a separate web page (under the “Resources” tab), which may be difficult for students to locate. Students would benefit from having all of these options and resources organized under one web page so they are better informed of their rights.

3. Create “Pregnancy” Tab Under Civil Rights & Title IX Office Home Page:

As mentioned above, Occidental College’s resources for pregnant students are lacking. Currently, the resources are scattered across several web pages affiliated with the College and the only mention of pregnancy on the Civil Rights & Title IX Office home page is under the non-discrimination notice. The Civil Rights & Title IX Office should include a separate sidebar tab labeled “Pregnancy.” Under this tab should be a statement of the law, making it clear that Title IX covers pregnant students. The College should also develop its own policy expressing its commitment to supporting pregnant students and link directly to that policy from this page. The page should include the contact information for Title IX personnel who can assist pregnant students, as well as the link to “Make a Report.” Finally, the College should consolidate all of its resources under this one page. Instead of making students search for the “Class Absence Due to Illness or Extenuating Circumstances” or the “Health & Safety” tab, it should be clear from this page alone that students may be granted accommodations from class due to medical-related absences and can obtain free pregnancy tests at the student wellness center.

Substance of Title IX Program

1. Clarify Title IX Protections for Student-Athletes:

As mentioned above, Occidental College’s Title IX resources for student-athletes is severely lacking. Besides creating visibility about Title IX’s coverage of athletics both on the Civil Rights & Title IX Office website and on the Oxy Athletics website, the College should provide Title IX training

to student-athletes with a specific focus on athletic-related issues/protections. When I was a student-athlete at the College, we received annual Title IX training about sexual misconduct, how to report such misconduct, and who to report to. It wasn't until I wrote my senior thesis about Title IX and women's sports that I realized there was a whole framework under which the law applied to athletics alone. Students should be informed of the substantial proportionality requirement and the equal treatment standard so they can hold the school accountable for potential violations. I presume that many schools do not train student-athletes on this aspect of Title IX in an effort to avoid complaints; especially at larger Division I schools with football, I would assume that many women's teams (namely, the non-revenue generating ones) are not receiving equal treatment when it comes to things like practice/game times, locker rooms, travel, meals, social media presence, etc. Providing training on this aspect of Title IX would ensure that student-athletes are well-informed of their rights and can enforce them if needed.

The College should also implement a policy about transgender student-athletes, which should include a statement of the law's applicability to these students and what protections it provides to them. For an institution that otherwise shows a great deal of commitment and support to its LGBTQIA+ community, it was surprising to see no mention of transgender student-athletes anywhere across the College's websites.

2. Require Complainant Consent and Mandate Independent Investigators/Hearing Officers for Sexual Misconduct Cases:

As discussed previously, the College should reform its standard for considering complainant consent and for selecting investigators/hearing officers. Although the current complainant consent standard advises the Civil Rights & Title IX Coordinator to consider "the totality of the known circumstances," this grants the Coordinator too much discretion and deprives the survivor of autonomy over the situation. The standard should more heavily consider the survivor's wishes and the Coordinator should not be permitted to unilaterally pursue an investigation without the survivor's consent if there are other available means to resolve the situation. As to the College's selection of an investigator/hearing officer, it should always be a trained individual independent of the College community. Because of Occidental's small size, selecting an external individual decreases the likelihood that students know the investigator/hearing officer and minimizes the potential for bias/conflict of interest. Although the College allows students to object to the investigator/hearing officer once their identity is known, there is no guarantee that the individual will be removed from the case. Selecting only independent individuals would help parties feel more comfortable throughout the investigation process and ensure a more fair outcome for all involved.

3. Clarify Title IX Protections for Pregnant Students:

In addition to improving the accessibility of Title IX information for pregnant students, the College should provide more resources as well. As mentioned above, the College should implement a policy specifically dedicated to pregnant students that addresses accommodations not only in the classroom, but also in housing, leaves of absence, athletics, clubs, study abroad programs, etc. It is not sufficient for the College to tell students that they will be "supported" by the

Dean of Students Office during their pregnancy without providing more specific information. Moreover, under the “Health & Safety” tab of the College’s overall home page, the only reference to pregnancy is to let students know that the health center provides free pregnancy tests. Under the “Pregnancy” tab of the Civil Rights & Title IX Office home page (which the College should create), there should be more information about where students can obtain medical care related to their pregnancy and contact information for counselors or support groups.