

Office of Equity and Inclusion Update

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- *Title IX, Harassment, and Discrimination processes at Creighton University*
- *Training and Compliance Information*
- *Reports of Violations from 2013-2016*
- *Confidential Advocacy*

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Title IX of the Education Amendments Act of 1972

Title IX prohibits all forms of sex discrimination, including sexual violence, sexual harassment, dating violence, domestic violence, stalking, and retaliation. Universities are required to provide a prompt, equitable resolution process to address complaints and these complaints are handled by Creighton's Office of Equity and Inclusion.

The Dear Colleague Letter, published in 2011 by the Office of Civil Rights within the Department of Education outlines a number of directives that universities must follow in regards to Title IX:

- Once a school has knowledge of possible sexual violence, they must take immediate and appropriate action to investigate.
- Universities must take prompt action to end the sexual violence, prevent its reoccurrence, and address its effects.
- Universities must take steps to protect the reporting party including protective measures prior to and during the investigation.
- Schools must provide an equitable process for students to file complaints regarding sexual violence. This includes an equal opportunity to present witnesses and evidence and both parties must have the same appeal rights.
- Universities must use a **preponderance of evidence** standard to resolve complaints. This is a "more likely than not" standard of proof.
- Both parties must be notified of the final decision.

Campus Sexual Violence Elimination Act

The Campus Sexual Violence Elimination Act, more commonly referred to as the Campus SaVE Act, is part of the Violence Against Women Act Reauthorization of 2013. The Campus SaVE Act compliments many of the requirements under Title IX and provides additional guidance on prevention education, victim rights, and investigative practices:

- Schools are required to implement bystander education and prevention programs on campus
- Universities must provide victims with advocacy services, including information on healthcare, counseling services, legal services, and reporting options.
- Universities must train all officials working with disciplinary proceedings related to Title IX.
- Institutional policies and procedures must be prompt, fair, and impartial.
- Faculty, staff, and students must receive on-going training, including mandatory training, for all incoming students and new employees.
- Schools must include reported incidents of dating violence, domestic violence, and stalking in their Annual Security Report.

Training Requirements under Title IX and Campus SaVE Act

Creighton has implemented measures to remain in compliance with both Title IX and the Campus SaVE Act. This includes the following:

- Training for faculty and staff
 - New faculty receive an in-person training during faculty orientation and new staff members receive an in-person training at the bi-weekly new employee orientation.
 - All current faculty and staff were required to take a 90-minute online Title IX training in the 2014-2015 year. Approximately 2066 individuals completed this requirement.
 - Current faculty and staff will receive additional training online by departments moving forward to ensure better compliance.

- Training for students
 - All incoming campus-based students receive in-person training at their orientation or a required online training from the Office of Equity and Inclusion that is distributed through Blueline. This year in-person trainings were presented to all incoming undergraduate, graduate, dental, medical, and law students while incoming students in the School of Pharmacy and Health Professions received the online training through Blueline as a class requirement.
 - All campus-based training includes information on reporting incident and information on advocacy options available.
 - All incoming undergraduate students are required to complete an online training focusing on alcohol, drugs, and sexual violence. This training is run through the Division of Student Life
 - A new graduate, professional, and distance student training is now available online through this same program and implementation started this past year.
 - All student athletes receive an annual in-person Title IX training during athlete orientation.

- Training for individuals working with Title IX investigations
 - All individuals serving as investigators for the Office of Equity and Inclusion have completed a 2-day civil rights investigator training offered through the Association of Title IX Administrators (ATIXA), the leading national organization for campus professionals. At this time we have 11 active investigators.
 - Each year the Office of Equity and Inclusion completes on-going training for investigators including relevant webinars and in-person refresher training. The most recent training was held in June 2016.
 - The Title IX Coordinator has completed a 4-day initial training through ATIXA and completed a 2-day “level two” training in the spring.

- The Senior Investigator has completed the initial training program in addition to the “level 2” and “level 3” training for investigators, focusing on interview strategies, evidence, due process, and other best practice guidelines for investigations.
- Training for first-responders
 - Training has been completed for Public Safety staff and Residence Life professional staff responding to incidents of sexual violence
 - Annual training for Resident Advisors and Desk Receptionist on Title IX issues
- Implementation of bystander and prevention education programs
 - Bystander and prevention programming is offered through the Violence Intervention and Prevention (VIP) Center, which is part of the Office of Equity and Inclusion.
 - Creighton has implemented the “Green Dot” bystander intervention program since August 2012 in large part through a Violence Prevention Grant with Catholic Health Initiatives and the Women’s Center for Advancement Omaha.
 - Since 2012, Creighton has trained 20 faculty and staff through the national certification program for Green Dot. These facilitators have been able to host approximately 4 trainings per year in addition to trainings specific to certain student groups upon request. These trainings were originally 6 hours in length but with updated curriculum, the trainings are now 3-4 hours in length.
 - Since 2012, we have trained 735 faculty, staff, and students through the Green Dot program and provided Green Dot programs and presentations reaching many more
 - In addition to the Green Dot program, the VIP Center offers presentations, programming, and awareness campaigns to students. In the 2015-2016 year, the VIP Center completed 96 events that reached approximately 6500 people on campus.
- Additional training
 - Creighton requires all individuals working with children and vulnerable adults to complete an online or in-person training and have a current background check.
 - This requirement was implemented through University policy in 2013 and since that time approximately 5000 individuals have completed training. This includes faculty, staff, students, and outside affiliates working with youth on campus (e.g. summer athletic camps.)

Policies under the Office of Equity and Inclusion at Creighton University

The Office of Equity and Inclusion at Creighton University was created in the spring of 2012 and brought together a number of equity initiatives at the University, including responsibilities under Title IX. In the first year, the Office worked to build partnerships on campus and revise University policies and reporting structures to allow all reports of harassment, discrimination, sexual violence, sexual harassment, dating/domestic violence, and stalking to be handled through a single office and through a single policy for all members of the Creighton community. This policy was approved in 2013 and is currently known as the Harassment, Discrimination, Sexual and Relationship Misconduct Policy 2.1.25. This policy fulfills Creighton's obligations for a number of civil rights laws including, but not limited to, Title IX, the Campus SaVE Act under VAWA, Title VII, and Section 504 of the Rehabilitation Act.

In addition, the University enacted a Mandatory Reporters Policy (2.1.26) in 2013 that requires faculty and staff with leadership responsibilities or with a responsibility for student welfare to report incidents of harassment, discrimination, sexual and relationship misconduct to the Office of Equity and Inclusion. Mandatory reporting of incidents specific to sexual violence is a mandate of the Campus SaVE Act.

In September 2016, Policies 2.1.25 and 2.1.26 were updated with approval from the President's Council. Some of the highlighted changes include:

- An updated title for the policy to include "relationship misconduct." This represents reports of dating violence, domestic violence, and stalking.
- An amnesty statement that first appeared in the 2014-2015 Student Handbook was added to the University Policy. This allows students the ability to report an incident of sexual violence without facing additional code of conduct charges for non-violent violations. For example, an individual would not be charged with underage drinking if they had consumed alcohol around the time of a reported sexual assault.
- The addition of "gender identity" and "gender expression" as protected categories within the policy. In 2013, gender identity was added as a reportable hate crime under the Clery Act.
- Gender neutral language throughout the policy to be more inclusive.
- A new section on possible sanctioning as the result of a finding of responsibility
- Updated the Mandatory Reporters Policy to provide an exemption for individuals who learn of an incident involving an immediate family member or spouse.
- Provided clarifying language on confidentiality to include that confidential individuals "will not share any identifiable information without permission, unless sharing is required by law, or if the information suggests that there is imminent risk of harm to self, others, or the campus community."

Annual Security Report

All Universities are required to report their annual crime statistics, including reports of sexual violence, stalking, dating violence, and domestic violence. This report is required under the Clery Act of 1990. Annual Security Reports are based on the calendar year (January-December) and not on the academic year cycle. This is an important distinction when reviewing statistics.

The Annual Security Report includes incidents that happen within the following three locations:

- On campus property, including residence halls
- Non-campus property (buildings owned or controlled by the university, but not located on campus)
- Public property (streets, sidewalks, parking lots, etc. that fall *within or immediately adjacent to* campus property)

The Annual Security Report does NOT include incidents that occur off-campus. For example, if a student reports a sexual assault by another student at an off-campus apartment, that incident would be investigated by the Office of Equity and Inclusion, but it would not be included in the Annual Security Report, because it didn't occur in one of the 3 reportable locations.

Title IX Violations - Annual Security Report

Sexual violence has always been a reportable category in the Annual Security Report since its inception. In 2013, the Clery Act was amended through the Campus SaVE Act and now includes reported incidents of dating violence, domestic violence, and stalking. Prior to 2013, these statistics were not included in the Annual Security Report. In the chart below, you'll see an "N/A" in 2012 for these categories, as the University did not officially report on these areas.

Creighton's definitions of violations appear in the Harassment, Discrimination, Sexual and Relationship Misconduct Policy; however, the Clery Act requires institutions to report crimes using their definitions.

Below are Creighton's Title IX reported incidents in the Annual Security Report from 2012-2015:

| Title IX Violation | 2012 | 2013 | 2014 | 2015 |
|----------------------------|-------------|-------------|-------------|-------------|
| Sex offenses- forcible | 2 | 4 | 3 | 4 |
| Sex offenses- non-forcible | 0 | 0 | 0 | 0 |
| Dating Violence | N/A | 1 | 3 | 7 |
| Domestic Violence | N/A | 0 | 0 | 1 |
| Stalking | N/A | 1 | 2 | 3 |
| TOTAL | 2 | 6 | 8 | 15 |

Office of Equity and Inclusion Reports

The Office of Equity and Inclusion receives all University reports involving faculty, staff, or students related to the following violations:

- Dating Violence
- Domestic Violence
- Stalking
- Sexual Harassment
- Discriminatory Harassment
- Discrimination
- Hostile Environment
- Retaliation
- Sexual violence
 - Non-consensual sexual intercourse
 - Non-consensual sexual contact
 - Sexual Exploitation

Reports are received through self-reports, mandatory reporters, or referrals from other offices. Reports generally fall into 5 main categories:

1. Reports involving all Creighton individuals (no outside people)
2. Reports where a Creighton individual has harmed a non-Creighton individual
3. Reports where a Creighton individual is harmed by a non-Creighton individual
4. Reports where a Creighton individual has been harmed, but does not want to share information
5. Reports where a non-Creighton individual has been harmed on campus, but does not want to share information

The first two categories represent reports where Creighton has jurisdiction or control over the responding party, or the individual who is alleged to have committed the violation. In these situations, Creighton has the ability to pursue a formal or informal resolution.

The three remaining categories represent reports where Creighton does not have jurisdiction or control over the responding party, or the individual who is alleged to have committed the violation. While Creighton does not have the ability to pursue a resolution, there is an ability to respond and offer advocacy and support. Additionally, OEI or the VIP Center may assist an individual in making a report to local authorities or to another institution, if the responding party is a student at another school.

Formal and Informal Resolutions

The Harassment, Discrimination, Sexual and Relationship Misconduct Policy allows for two different types of resolution, formal and informal. Informal resolutions are often utilized when the behavior is non-threatening and not severe or pervasive. For example, if someone reports that another individual made an offensive sexual joke or comment in the workplace, this might be resolved informally if it was a one-time offense. If the offensive sexual joke was an on-going pattern of behavior that has affected the reporting party in their workplace, this may rise to the level of a formal resolution.

The reporting party must be comfortable with an informal resolution for this to be put into place. If the reporting party wants to pursue a formal resolution instead, that is their right. Additionally, there are certain situations where an informal resolution would not be available. Specifically, incidents of sexual violence are only handled through a formal resolution process.

In the case of a formal resolution, an individual would report an incident to the Office of Equity and Inclusion in writing or in person. That report would be reviewed and a preliminary inquiry would occur to determine if there are facts sufficient to believe that a violation of the Harassment, Discrimination, Sexual and Relationship Misconduct policy has occurred. At that time, the Executive Director would assign an investigative team to the case. The Senior Investigator in the Office of Equity and Inclusion handles most cases with the assistance of trained faculty and staff who serve as investigators on a rotating basis.

Each party is interviewed, along with any relevant witnesses, and evidence is submitted. Each party has the opportunity to review their statement and offer any additions or changes prior to the final report. The investigative team documents their findings in a report that is submitted to the Executive Director for review. This includes all interview summaries, credibility assessments, and an analysis of the facts. A final decision is reached by the Executive Director and communicated to both parties.

For more information on the formal and informal resolution process, please see the Harassment, Discrimination, Sexual and Relationship Misconduct Policy.

Reports to the Office of Equity and Inclusion Resulting in a Formal or Informal Investigation:

The investigative numbers for 2013, 2014, and 2015 are listed below. Each investigation is classified by the predominant violation, meaning that each number below is a separate incident. Individuals can be charged with more than one violation (i.e. sexual harassment and stalking) but for reporting purposes, the case is listed by the predominant violation.

The chart below includes:

- Reports involving all Creighton individuals (no outside people)
- Reports where a Creighton individual is harmed by a non-Creighton individual
 - Situations where Creighton can take action (i.e. campus ban)
- Reports where a Creighton individual has harmed a non-Creighton individual

Note: The chart represents reports that were actionable but not all reports resulted in a resolution or finding of responsibility. The reports are listed by their predominant violation.

| Violation | 2013 | 2014 | 2015 | 2016 (to 11/10) |
|---------------------------|-------------|-------------|-------------|------------------------|
| Sexual Violence | 6 | 2 | 5 | 6 |
| Sexual Harassment | 5 | 10 | 8 | 10 |
| Dating Violence | 2 | 4 | 8 | 3 |
| Domestic Violence | 0 | 0 | 0 | 0 |
| Stalking | 1 | 3 | 2 | 1 |
| Retaliation | 0 | 1 | 2 | 0 |
| Discriminatory Harassment | 2 | 6 | 4 | 7 |
| Discrimination | 0 | 0 | 2 | 6 |
| Hostile Environment | 0 | 0 | 1 | 5 |
| TOTAL | 16 | 26 | 32 | 38 |

*Statistics reported are from the calendar year (January-December) to parallel the statistics shared in the Annual Security Report

Reports to the Office of Equity and Inclusion- Advocacy and Support Only (no resolution)

This includes:

- Reports where a Creighton individual is harmed by a non-Creighton individual
 - Situations where Creighton cannot take action (i.e. unknown offender)
- Reports where a Creighton individual may have been harmed, but does not want to share information with the Office of Equity and Inclusion
- Reports where a non-Creighton individual has been harmed on campus, but does not want to share information with the Office of Equity and Inclusion

| Violation | 2013 | 2014 | 2015 | 2016 (as of 11/10) |
|---------------------------|-------------|-------------|-------------|---------------------------|
| Sexual Violence | 0 | 3 | 14 | 15 |
| Sexual Harassment | 1 | 1 | 4 | 3 |
| Dating Violence | 1 | 5 | 6 | 7 |
| Domestic Violence | 0 | 0 | 0 | 2 |
| Stalking | 0 | 1 | 3 | 2 |
| Retaliation | 0 | 0 | 0 | |
| Discriminatory Harassment | 1 | 0 | | 2 |
| Discrimination | 0 | 0 | 0 | 0 |
| Hostile Environment | 0 | 0 | 0 | 0 |
| TOTAL | 3 | 14 | 27 | 31 |

*Statistics reported are from the calendar year (January-December) to parallel the statistics shared in the Annual Security Report

There was a notable increase in reported incidents to OEI in 2015 that did not result in a resolution. The Office attributes this increase to two important factors:

- In August of 2014, all faculty and staff who are classified as mandatory reporters received an informational packet from OEI detailing their responsibility under that policy to report incidents of sexual violence. This was the first time the office sent materials out to mandatory reporters and this increased awareness and therefore, reporting to the office.
- The Office of Equity and Inclusion implemented a mandatory Title IX online training for all faculty and staff in November 2014. This training reached many individuals who had not seen in-person training on Title IX and increased knowledge on what types of incidents needed to be reported to the office.

Findings and sanctioning

The Office of Equity and Inclusion maintains the privacy of individuals involved in formal and informal resolutions. The office does not provide a breakdown of individual cases and sanctions, but provides an overview of resolutions from 2013-2015.

Using a preponderance of evidence standard, the University determines a finding in each formal resolution. This resolution process is equitable and both parties have the ability to present evidence and witnesses, and share their account of the incident. The University considers these factors in addition to a credibility assessment of all parties involved. Individuals are found “responsible” or “not responsible” for a violation by the Executive Director for the Office of Equity and Inclusion. If an individual is found responsible, sanctioning is determined and may result in a temporary or permanent removal from the Creighton community.

Sanctioning resulting in suspension, expulsion, or termination is listed below.

| Violation | Finding of responsibility resulting in suspension, expulsion, or termination |
|---------------------------|--|
| Sexual Violence | 8 |
| Sexual Harassment | 2 |
| Dating Violence | 3 |
| Domestic Violence | 0 |
| Stalking | 1 |
| Retaliation | 0 |
| Discrimination | 0 |
| Discriminatory Harassment | 0 |
| Hostile Environment | 1 |
| Total | 15 |

*Since 2013, in every case where the responding party was found responsible for sexual violence (physical sexual acts including penetration), the Office of Equity and Inclusion finding resulted in suspension, expulsion, or termination. Additionally, in every case of dating violence where a physical assault occurred, the OEI finding resulted in suspension, expulsion, or termination.

History of Advocacy Services Related to Sexual Violence

Creighton University's Division of Student Life has a long history of working with student survivors and supporting individuals after an incident of sexual violence. In 2010, the Division created an Assistant Dean of Students position with a 25% commitment to "advocacy" for students. This position was designed to support students working with the reporting process, but also to assist students who did not choose to report, but who wanted access to resources. In the first year, students were served on a referral basis and by fall of 2011, students begin to hear about advocacy through the newly created Violence Intervention and Prevention (VIP) Center.

In the summer of 2012, the VIP Center left the Division of Student Life and came under the Office of Equity and Inclusion. The Assistant Dean of Students position also moved with the VIP Center and became the Associate Director for Prevention Education and Inclusion.

In the summer of 2014, the VIP Center received approval to designate the Associate Director for Prevention Education and Inclusion as a confidential advocate. This was the first "confidential" position outside of Student Counseling Services and has allowed for a greater increase in utilization from students seeking assistance. Since fall of 2014, the Center has worked with 233 new clients.

Individuals seeking services in the VIP Center

The VIP Center is a well-utilized resource on Creighton's campus and this increase has been seen in the number of individuals served by the center over the past 5 years. The VIP Center tracks individuals served by academic year, not calendar year.

| Academic Year | Number of Total Clients |
|---------------|-------------------------|
| 2011-2012 | 28 |
| 2012-2013 | 32 |
| 2013-2014 | 57 |
| 2014-2015 | 87 |
| 2015-2016 | 146 |

Why are Advocacy Numbers Higher than Reporting Numbers?

Individuals are not required to make a report to the University and can receive advocacy services without ever making a report. In addition, the VIP Center serves secondary survivors and individuals who experienced trauma prior to college.

Individuals often go to the VIP Center as a first stop after an incident of sexual violence. This includes individuals who contact the VIP Center on their own as well as referrals from the Office of Equity and Inclusion (OEI). When the Title IX Coordinator learns that a student may have experienced an incident of violence, they are often referred to the VIP Center to discuss all the options available to them, including making a report to the University. They may choose this route, or they may decide that they are not ready or interested in making a report. For students who choose not to make a report, OEI may

be limited in investigative options, which is why there are less reports to the University than numbers of students seeking advocacy services. OEI has a responsibility to respond to all reports and investigate to the extent possible, but the survivor is in control about whether or not to report the incident.

Students may visit the VIP Center for trauma that occurred prior to their arrival at Creighton. This includes incidents that occurred in high school or in childhood. Since most students have not had access to free and confidential advocacy prior to their arrival at Creighton, the VIP Center works with a number of individuals who are receiving advocacy for the first time in relation to an incident that occurred prior to college.

In addition, the VIP Center serves friends, parents, and significant others as “secondary survivors.” These individuals are counted within the advocacy service numbers, but are not individuals who would make a report to the University. It is important to note that the VIP Center may work with a survivor and multiple friends or loved ones on a single incident of violence. This might mean, for example, that five individuals were served by the VIP center for one situation, but the Office of Equity and Inclusion would only have one reported incident in their resolution numbers because it involves a single incident of violence.

Faculty and staff members can also visit the VIP Center for assistance with their own primary or secondary experiences with violence in or outside of their position at Creighton, and these individuals are also counted in the overall service numbers for the center.