

Office of Equity and Inclusion -Title IX Report

Information on Title IX processes at Creighton University

Reports of Violations from 2013-2015

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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 complainant (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.

Title IX at Creighton University

In accord with its history, mission, and credo, Creighton University believes that each individual should be treated with respect and dignity and that any form of sexual violence, harassment, and/or discrimination is a violation of human dignity. At Creighton, the Office of Equity and Inclusion works to provide a safe and welcoming environment for all students, faculty, staff, and guests.

Central to the mission of Creighton University, the Office of Equity and Inclusion believes in the inalienable worth of each individual and focuses on addressing any form of harassment or discrimination in order to restore that individual to the Creighton experience they deserve. Preventing acts of harassment or discrimination, specifically sex discrimination, is a way that Creighton promotes a fair and just environment for all members of the community.

History of Title IX reporting 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 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. The previous University policy on harassment and discrimination was revised and updated by spring of 2013 to reflect these new changes and put into place a new investigative procedure for Title IX cases.

Prior to 2013, Title IX complaints were handled through separate processes for employees and students. Student cases were handled by the University Committee on Student Discipline, while faculty and staff cases were heard by committee. The updated University policy brought all of campus under the same investigative structure and individuals are held accountable to the same standards.

In addition to reporting structure changes, 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 all incidents of sexual violence, stalking, dating/domestic violence, and sexual harassment to the Office of Equity and Inclusion.

After the 2013-2014 academic year, the Office of Equity and Inclusion worked in partnership with the Division of Student Life to make an important change in the Creighton University Student Handbook; an amnesty statement was added to the 2014-2015 handbook and allowed 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.

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 newly created 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.

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 1990. 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 Sexual Violence, Harassment, Discrimination, and Grievances Policy; however, the Clery Act requires that sexual violence incidents be reported in one of two categories: sex offenses-forcible and sex offenses- non-forcible. These terms are defined below and originate from the Uniform Crime Reporting (UCR) definition of rape and the National Incident-Based Reporting System (NIBRS) crime definitions.

Sex Offenses- Forcible: Any sexual act directed against another person, forcible and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

Starting with the 2014 report, this category is now broken down into 4 categories.

- **Forcible Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

- **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcible or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
- **Sexual Assault with an Object:** Use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcible or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
- **Forcible Fondling:** Touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or not forcible or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.

Sex Offenses- Non-Forcible: Unlawful, non-forcible sexual intercourse

- **Incest:** Non-forcible sexual intercourse between persons who are related to each other with the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Non-forcible sexual intercourse with a person who is under the age of consent.

Below are Creighton's Title IX reported incidents as they appear in the Annual Security Report. Please note that 2015 statistics will be available by October 1, 2016, as required by law.

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

*All 3 of these reports were "forcible rape" under this category

**2015 statistics will be available by October 1, 2016, as required by the Clery Act.

Office of Equity and Inclusion Reports

Following guidance from Title IX and the Campus SaVE Act, the Office of Equity and Inclusion (OEI) oversees the resolution process for all Title IX complaints at Creighton University.

This includes sexual violence, sexual harassment, dating violence, domestic violence, stalking, and sex discrimination. 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 Sexual Violence, Harassment, Discrimination, and Grievances 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 OEI 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 Sexual Violence, Harassment, Discrimination, and Grievances policy has occurred. At that time, the Executive Director would assign an investigative team to the case.

Each party would be interviewed, along with any relevant witnesses, and evidence would be gathered. The investigative team documents their findings in a report submitted to the Executive Director for review. 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 Sexual Violence, Harassment, Discrimination, and Grievances Policy.

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

The investigative numbers for 2013, 2014, and 2015 are listed below. Each resolution 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 charge.

Additionally, it is important to note that Creighton's definition of sexual violence extends beyond the definitions included in the Annual Security Report. Sexual violence includes all nonconsensual sexual activity as well as sexual exploitation and voyeurism.

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

| Title IX Violation | 2013 | 2014 | 2015 |
|---------------------------|-------------|-------------|-------------|
| Sexual Violence | 6 | 2 | 5 |
| Sexual Harassment | 5 | 10 | 8 |
| Dating Violence | 2 | 4 | 8 |
| Domestic Violence | 0 | 0 | 0 |
| Stalking | 1 | 3 | 2 |
| Retaliation | 0 | 1 | 2 |
| TOTAL | 14 | 20 | 25 |

*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

| Title IX Violation | 2013 | 2014 | 2015 |
|---------------------------|-------------|-------------|-------------|
| Sexual Violence | 0 | 3 | 14 |
| Sexual Harassment | 1 | 1 | 4 |
| Dating Violence | 1 | 5 | 6 |
| Domestic Violence | 0 | 0 | 0 |
| Stalking | 0 | 1 | 3 |
| Retaliation | 0 | 0 | 0 |
| TOTAL | 2 | 10 | 27 |

*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. In addition, the Office of Equity and Inclusion rolled out 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.

| Title IX Violation | Finding of responsibility resulting in suspension, expulsion, or termination |
|---------------------------|--|
| Sexual Violence | 5 |
| Sexual Harassment | 2 |
| Dating Violence | 3 |
| Domestic Violence | 0 |
| Stalking | 1 |
| Retaliation | 0 |
| Total | 11 |

*Since 2013, in every case where the respondent was found responsible for sexual violence (physical sexual acts including penetration and sexual fondling), 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.

Why are Advocacy Numbers Higher than Reporting Numbers?

Many individuals have asked why Creighton's VIP Center has such high numbers for advocacy services when Creighton's reporting numbers are much lower. The answer is that 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.