Policies and Procedures

SECTION: Administration

CHAPTER: General

POLICY: Mandatory Reporters

PURPOSE

The purpose of this policy is to articulate Creighton University’s expectation for all faculty and exempt staff of their mandated reporting responsibilities of concerning and disruptive behaviors, discrimination, discriminatory harassment, sexual harassment, sexual misconduct, and crimes. There are three federal laws that establish responsibilities for Creighton faculty and staff to report certain types of crimes and incidents, especially sexual misconduct—the Clery Act, Title VII and Title IX. Each of these areas of federal law has a different purpose, but generally the laws are intended to protect members of the campus community, visitors and guests from criminal and discriminatory behavior. Reporting of concerning and disruptive behaviors is not legally mandated, but is a policy mandate to assist the University in early identification and detection of threatening or at-risk situations. Additionally, state law requires the reporting of child abuse.

All other individuals are strongly encouraged to report concerning behaviors, discrimination, sexual harassment and crimes.

POLICY

It is the policy of the University to define all faculty and exempt staff as mandatory reporters. If a mandatory reporter learns about sexual harassment, discrimination or sexual misconduct, s/he is expected to promptly contact the Office of Equity and Inclusion. The Office of Equity and Inclusion will take responsibility for prompt notification of the Department of Public Safety and other appropriate University officials. Other serious crimes covered by the Clery Act must be reported to the Department of Public Safety. All concerning and disruptive student behaviors must be reported to the Office of the Vice President for Student Life. Concerning and disruptive employee (faculty or staff) behaviors must be reported to Human Resources. All behaviors by students, faculty or staff that are immediate and are an emergency should be reported to the Department of Public Safety at (402) 280-2911.

When reporting sexual harassment or discrimination or sexual misconduct, a mandatory reporter may initially be able to omit personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, location, etc.). The Office of Equity and Inclusion can provide mandatory reporters with assistance regard to how much detail is needed in an initial report. Subsequent to an initial report, campus officials may need additional information in order to fulfill the University’s obligations under Title IX. In taking these subsequent actions, the University will always be guided by the goals of empowering the victim and allowing the victim to retain as much control over the process as possible, but no individual (except healthcare providers and counselors in accordance with their code of ethics and state and federal law and clergy during the rite of confession) can or should promise confidentiality. Counselors, health service providers and clergy are voluntary reporters, not mandated by law, but University policy creates an expectation to report non-personally identifiable information.
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The Clery Act requires reporting of 15 serious crimes, including sexual assault. Sexual harassment and discrimination are not covered by the Clery Act, but reporting of such incidents is required under Title IX. Mandatory reporters are expected to report crimes covered by the Clery Act to the Department of Public Safety without delay.

The Clery Act does not establish an obligation for Public Safety to conduct an investigation of the reported crime, only to report the crime as a statistic following Clery Act guidelines. In some cases, Public Safety may also be required to release a timely warning to the community about a threat to the community. In such cases, an initial investigation or determination of the nature of the threat may be conducted, after which a warning will be issued immediately.

Student behaviors that might be considered concerning or disruptive should be reported to the Office of the Vice President for Student Life. Based on the information provided a course of action will be determined and follow-up will be coordinated in collaboration with, but not limited to Student Counseling Services, the Department of Public Safety, and the impacted school/college. Determination in each student case will be made and, if needed, an agreed upon support plan will be created.

SCOPE/ELIGIBILITY

This policy applies to all University faculty and exempt staff. Vendors, independent contractors, and other outside parties who conduct business with the University will be expected to comply with this policy as well, as specified by the terms of any contract between the University and such third party.

This policy also applies to all incidents of alleged sexual harassment, discrimination or sexual misconduct, including those which occur off campus or outside of normal work, class or business hours, where the alleged incident involves a member of the University community and a supervisor, co-worker, faculty member, student or non-University employee.

PROCEDURE

1. The University has defined all faculty and exempt staff as mandatory reporters.
   a. When a mandatory reporter becomes aware of an alleged act of sexual harassment, discrimination or sexual misconduct, the mandatory reporter must promptly contact the Office of Equity and Inclusion. The mandatory reporter should use The Harassment and Discrimination Reporting Form. Alternatively, the employee may call the Office of Equity and Inclusion and then follow-up by filing the form.
   b. The Office of Equity and Inclusion will promptly inform the Department of Public Safety about the report if there are concerns about individuals and their safety.
If a mandatory reporter thinks that an individual may be about to disclose an act of sexual harassment, discrimination or assault, the mandatory reporter should, if at all possible, tell the individual that the University will maintain the privacy of the information, but the mandatory reporter cannot maintain complete confidentiality and, is required to report the act and may be required to reveal the names of the parties involved. If the individual wishes to proceed, the mandatory reporter should inform the individual of the implications of sharing the names of the parties involved, which puts the University on notice?

i. When the individual is a student, rather than speaking to the student about confidential information, the mandatory reporter should offer to refer or accompany the student to the Center for Health and Counseling for health and/or counseling services.

ii. Individuals can be referred to the Associate Director for Violence Prevention and Education for support services and information.

iii. The Women’s Center for Advancement Hotline (402) 345-7273 is available at any time of the day or week and provides immediate emotional support for victims and their families of sexual assault and/or domestic violence.

d. The Office of Equity and Inclusion is also available to provide guidance on how to handle a situation.

2. Under the Clery Act, University faculty and exempt staff are mandatory reporters for a broader array of serious crimes.

a. These crimes include the following:

   i. **Murder & Non-Negligent Manslaughter**--The willful killing of one human being by another.

   ii. **Negligent Manslaughter**--The killing of another person through gross negligence.

   iii. **Robbery**--The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

   iv. **Aggravated Assault**--An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

   v. **Burglary**--The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

   vi. **Motor Vehicle Theft**--The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)
vii. **Arson**—Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

viii. **Arrests for Weapon Law Violations**—The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

ix. **Arrests for Drug Abuse Violations**—Violations of State and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadones); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).

x. **Arrests for Liquor Law Violations**—The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned. (Drunkenness & driving under the influence are not included in this definition.)

xi. **Disciplinary Referrals for Weapon Law Violations**

xii. **Disciplinary Referrals for Drug Abuse Violations**

xiii. **Disciplinary Referrals for Liquor Law Violations**

xiv. **Hate Crimes**

xv. **Sex Offenses**

xvi. **Forcible**—Any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent.

xvii. **Sex Offenses-Nonforcible**—Unlawful, nonforcible sexual intercourse.

1. **Incest**. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

2. **Statutory Rape**. Nonforcible sexual intercourse with a person who is under the statutory age of consent.

b. Mandatory reporters are expected to report crimes covered by the Clery Act to the Department of Public Safety without delay by calling (402) 280-2911 for emergencies or (402) 280-2104 for nonemergency situations. A mandatory reporter may choose, but is not required, to provide personally identifiable information (the name of the victim, the name of the accused individual, and other identifying details about witnesses, specific location, etc.) unless a clear threat to health or safety is present, as determined by Public Safety.
c. Vice Presidents, Deans, Directors and Department Heads are expected to respond to the annual request from Public Safety to report knowledge of any crimes that may not have been previously reported to Public Safety.

3. When a mandatory reporter becomes aware of any concerning and disruptive student behaviors, the mandatory reporter must promptly contact the Office of the Vice President for Student Life.

4. Corrective action may be taken against any faculty or exempt staff member for failing to comply with the directives of this policy.