

Policies and Procedures

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CHAPTER: General	ISSUED: 3/13/2013	REV. A 7/23/2014	REV. B 9/21/16
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PURPOSE

The purpose of this policy is to articulate Creighton University's expectation for all faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare of their mandated reporting responsibilities of concerning and disruptive behaviors, dating/domestic violence, discrimination, discriminatory harassment, sexual harassment, sexual violence, stalking, and crimes. For full definitions of dating violence, discrimination, discriminatory harassment, domestic violence, sexual harassment, sexual violence, and stalking, see the Harassment, Discrimination, Sexual and Relationship Misconduct Policy (2.1.25). There are three federal laws that establish responsibilities for Creighton faculty and staff to report certain types of crimes and incidents, especially sexual violence—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, dating/domestic violence, discrimination, discriminatory harassment, sexual harassment, sexual violence, stalking, and crimes.

POLICY

It is the policy of the University to define all faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare as mandatory reporters. If a mandatory reporter learns about sexual harassment, discrimination or sexual violence, they are 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 Provost 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.

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When reporting dating/domestic violence, discrimination, discriminatory harassment, sexual harassment, sexual violence, and/or stalking, 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 in 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 on-campus healthcare providers and counselors in accordance with their code of ethics and state and federal law, clergy during the rite of confession, and the Associate Director for Prevention Education and Inclusion) can or should promise confidentiality. The Associate Director for Prevention Education and Inclusion, 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. These 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.

The Clery Act requires reporting of four general categories of crime statistics: criminal offenses, hate crimes, VAWA offenses, and arrests and referrals for disciplinary action. Sexual harassment and sex 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 Provost 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.

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SCOPE/ELIGIBILITY

This policy applies to all faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare as mandatory reporters. 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.

The policy applies to all University faculty and staff, except the following:

1. The Associate Director for Prevention Education and Inclusion who serves as a confidential advocate for students, faculty, and staff in relation to this policy
2. On-campus licensed professional counselors and staff
3. On-campus health service providers and staff
4. Clergy members during the rite of confession
5. Faculty or staff who are closely-related (e.g. sibling, parent, guardian, grandparent, or spouse) to the person experiencing or reporting an incident

This policy also applies to all incidents of alleged dating/domestic violence, discrimination, discriminatory harassment, sexual harassment, sexual violence, and/or stalking, 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 all staff with supervisory or leadership responsibilities or responsibilities related to student welfare as mandatory reporters.
 - a. When a mandatory reporter becomes aware of an alleged act of dating/domestic violence, discrimination, discriminatory harassment, sexual harassment, sexual violence, and/or stalking, the mandatory reporter must promptly contact the Office of Equity and Inclusion. The mandatory reporter should use the Office of Equity and Inclusion [Online 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 the safety of specific individuals on campus.

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- c. If a mandatory reporter thinks that an individual may be about to disclose an act of dating/domestic violence, discrimination, discriminatory harassment, sexual harassment, sexual violence, and/or stalking, 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 to respond to the report.
 - 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 Violence Intervention and Prevention Center or Student Counseling Services for support services and information.
 - ii. 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, all faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare are mandatory reporters for a broader array of serious crimes. These crimes include the following:
- a. **Criminal Offenses.**
 - i. Criminal Homicide:
 1. **Murder & Non-Negligent Manslaughter**: The willful killing of one human being by another.
 2. **Manslaughter by Negligence**: The killing of another person through gross negligence.
 - ii. 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.
 - iii. 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

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- 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.)
- iv. **Burglary**: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes:
1. 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.
 2. Forcible Entry: All offenses where force of any kind is used to unlawfully enter a structure for the purpose of committing a theft or felony.
 3. Attempted Forcible Entry: A forcible entry into a locked structure is attempted by not completed.
 4. Unlawful Entry: The entry of a structure by an unlocked door or window.
- v. **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.)
- vi. **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.
- vii. **Sexual Assault (Sex Offenses)**: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
1. 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. This offense includes the rape of both males and females.
 2. Fondling: Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
 3. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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4. Statutory Rape--Sexual intercourse with a person who is under the statutory age of consent.
- b. **Hate Crimes.** A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.
 - i. Race--A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.
 - ii. Religion--A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.
 - iii. Sexual Orientation--A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation.
 - iv. Gender--A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender; e.g., male or female.
 - v. Gender Identity--A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
 - vi. Ethnicity--A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry.
 - vii. National Origin--A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.
 - viii. Disability--A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such a disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.
 - c. **VAWA Offenses.** Crimes added to the Clery Act by the Violence Against Women Act.

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- i. Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - ii. Domestic Violence: A felony or misdemeanor crime of violence committed by:
 - 1. A current or former spouse or intimate partner of the victim;
 - 2. A person with whom the victim shares a child in common;
 - 3. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - 4. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
 - 5. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
 - iii. Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - 1. Fear for the person's safety or the safety of others; or
 - 2. Suffer substantial emotional distress.
- d. Arrests and Referrals for Disciplinary Action.**
- i. Weapons: Carrying, Possessing, etc.: The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. This classification encompasses weapon offenses that are regulatory in nature.
 - ii. Drug Abuse Violations: Violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation or any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

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- iii. Liquor Law Violations: The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.
 - e. 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.
 - f. 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 Provost for Student Life.
4. Corrective action may be taken against any faculty or staff with supervisory or leadership responsibilities or responsibilities related to student welfare as mandatory reporters for failing to comply with the directives of this policy.

AMENDMENTS OR TERMINATION OF THIS POLICY

Creighton University reserves the right to modify, amend, or terminate this policy at any time.