

Mandatory Reporter

This document is intended to outline NCCC's policy regarding mandated reporting by employees of concerning behaviors, sex discrimination, harassment and crimes. This policy explains briefly the meaning and purpose of mandatory reporters, outlines the legal context, and articulates a straightforward set of guidelines for all employees to follow.

Preface

Mandatory Reporters: What and Why?

There are three federal laws that establish responsibilities for employees of universities to report certain types of crimes and incidents, especially sexual misconduct – the Clery Act, Title VII and Title IX. Additionally, state law may create a reporting duty regarding the abuse of minors. 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. The responsibilities established by these laws give rise to the term “mandatory reporter.” Reporting of concerning and disruptive behaviors is not legally mandated, but is a policy mandate to report to the Dean of Student Services for student concerns or Director of Human Resources for employee concerns in early identification and detection of at-risk situations.

The Legal Context

The Clery Act creates a duty for institutions to report crimes against persons and property in 18 categories and 8 types of hate crimes. Federal law requires NCCC to disclose these crimes in its Annual Security Report each October and failure to do so can result in substantial fines being imposed on the institution by the Department of Education. Guided by the language of the Clery Act and subsequent amendments, NCCC is required to define which employees must report crime information they receive so that NCCC can include it in the Annual Security Report. These employees are known as Campus Security Authorities.

a. The Clery Act

The language of the Clery Act would allow NCCC to exclude some faculty from reporting some of the time and to exempt many professional staff from the obligation to report. Such an approach, however, risks creating confusion for faculty and staff, takes a minimalist approach to the ethical obligation to inform our community about serious crimes, and makes the institution more vulnerable to enforcement action.

b. Title VII

Title VII focuses on sexual harassment in the workplace, and covers other forms of discrimination as well. Failure to take appropriate action can lead to legal liability for NCCC. Under Title VII, the law creates a duty to report for employees who supervise other employees, including students being paid by NCCC. As with the Clery Act, this statute would allow some faculty and staff to be exempted from reporting while supervising employees would be mandated to report. Once again, however, this selective approach may create confusion and risk; and it fails to ask all of us to share the responsibility to create a work place free of sexual harassment and other forms of discrimination.

c. Title IX

Title IX focuses on the adverse consequences faced by victims of gender discrimination and sexual harassment and creates an obligation for NCCC to investigate and to provide a “prompt and effective remedy.” Title IX obligates NCCC to provide a safe environment that does not interfere with the victim’s right to pursue an education or employment opportunities, benefits or privileges. NCCC incurs obligations under Title IX when a victim has given notice to a “responsible employee,” or when NCCC, in the exercise of reasonable care, should have known, about the assault or harassment.

As with the other laws, the definition of “responsible employee” under Title IX would allow NCCC to treat only some faculty and staff as mandated reporters but with the same possibility of confusion and risk of institutional exposure. Additionally, guidance from the Department of Education indicates that anyone a student could reasonably perceive as a responsible employee should be mandated to report, as should any employee who has a duty to report other forms of misconduct, such as academic dishonesty. Finally, the Department of Education has given prescriptive guidance on the duties of confidential employees, such as counselors, and those who can be exempted from mandatory reporting by NCCC, such as victim advocates. That guidance is reflected in the policy below.

Neosho County Community College (NCCC) Mandatory Reporting Policy

Who Reports?

NCCC defines all employees and trustees as mandatory reporters, unless exempted below. This includes student-workers who learn of reportable information while they are in the course of their duties for NCCC. NCCC considers RAs to be mandatory reporters who are always on-duty.

What Is to Be Reported?

- If a mandatory reporter learns about sex/gender discrimination, that employee is expected to promptly within 48 hours or less as soon as deemed necessary based on the severity of the incident contact the Title IX Coordinator Sarah Robb at 620-230-8062 (cell), 620-432-0302 (office), or sarah_robb@neosho.edu, or one of the deputy Title IX coordinators; Kerrie Coomes at 620-212-1153 (cell), 620-432-0304 (office), or kcoomes@neosho.edu, Karin Jacobson at 620-212-5135 (cell) 620-432-0333 (office), or kjacobson@neosho.edu, or , 620-432-0321 (office), or , who will then notify the Title IX Coordinator. The Title IX Coordinator will take responsibility for prompt notification to other appropriate NCCC officials. Sex/gender discrimination includes sexual harassment, sexual violence, intimate partner or relationship violence, and gender- based bullying, stalking, and hazing.
- Other serious crimes covered by the Clery Act (defined in number 6 below) must be reported immediately to the NCCC Clery Coordinator, (cell), 620-432-0381 (office) or . When a crime is also a form of sex/gender discrimination covered in the bullet above in any situation where the victim so requests, or there is a threat to the safety of the community or any member of it, even if they may also be criminal in nature, it should be reported immediately to the Title IX Coordinator.
- Reporting of concerning and disruptive behaviors should be reported to the Dean of Student Services for student concerns or Director of Human Resources for employee concerns in early identification and detection of at-risk situations.

- **Reporting of child sexual and/or physical abuse should be made to the County Attorney/Police Department** as well as the Title IX Coordinator.

When reporting misconduct covered under Title IX (e.g., sexual harassment, sex or gender discrimination, sexual assault, dating violence, domestic violence, stalking, sexual orientation discrimination, gender identity discrimination, etc.), NCCC employees must provide full details of the incident if known, including all names and personally identifying information. If a victim wishes for no action to be taken, the Title IX Coordinator must evaluate that request. NCCC is always guided by the goal of empowering the victim and allowing the victim to retain as much control over the process as possible. Typically, NCCC is compelled to act despite a victim's wishes when an incident evidences use of weapons, violence, threat, pattern or predation. Otherwise, a request for confidentiality or no action may be honored, with remedies offered to the victim as appropriate.

Employees should not promise confidentiality unless their professional role is confidential, and they have received the report in that confidential capacity. If approached, it is appropriate to counsel, "I may be obligated to share what you tell me with administrative officials. If you would like, I can connect you with campus resources who can maintain the confidentiality or privacy of what you share with them." Where an incident involves off-campus conduct involving a member or members of the campus community, the reporting expectations of this policy still apply. If an employee is unsure of whether to report, consult with the Title IX Coordinator or deputies as appropriate. These officials will guide an employee on what is to be reported, when and how.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to the Title IX Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted on the College's website or other means when available. Note that these anonymous reports may prompt a need for the institution to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply.

Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night events do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal College action.

Confidential Employees

Counselors, health service providers and clergy are considered exempt from mandatory reporting, unless a victim asks them to report or a duty to report exists under state law based on an imminently harmful situation. NCCC has designated the Director of Academic Advising and Counseling as a Confidential Employee. Confidential employees are expected to report aggregate data as it is reported to the Title IX Coordinator, without any personally identifiable details unless the confidential employee determines on a case-by-case basis that reporting would not be in the best interest of their client/patient/parishioner.

Designated Private Resources

NCCC wants victims to have a safe space for reporting. Thus, it has designated Hope Unlimited, Inc. as a possible private resource. Under NCCC policy these employees make reports in the form of non-personally identifiable [“Jane Doe” or “John Doe”] information initially. If it is determined through subsequent investigation that more information is needed, the Title IX Coordinator will seek it from employees designated as private resources. Where an employee designated as a private resource shares an incident with the Title IX Coordinator, the employee is not also required to also report this misconduct as a criminal act to the Clery Coordinator. The Title IX Coordinator will do so, to avoid double counting of incidents, unless there is an emergency or the victim wishes to report directly to Clery Coordinator.

Timely Warning

In some cases, the Clery Coordinator may 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. Victims will not be identified in any warning that is released.

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