

Cornell University
University Assembly

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Agenda

Codes and Judicial Committee
University Assembly
September 27th, 2017
4:30pm - 5:45pm
305 Day Hall

I. Call to Order (Chair)

- i. Call to Order (1 minutes)

II. Approval of Minutes (Chair)

- i. April 25, 2017 (1 minute)
- ii. September 6, 2017 (1 minute)
- iii. September 13, 2017 (1 minute)
- iv. September 20, 2017 (1 minute)

III. Business of the Day

- i. For Discussion/Vote: Housekeeping Changes to the Campus Code of Conduct (30 minutes) ^[1]
- ii. For Discussion: Examining Hate Speech and the Campus Code of Conduct (30 minutes) ^[2]
- iii. For Discussion: Discussing recent Department of Education policy shifts, our Quantum of Proof, and Policy 6.4 (9 minutes) ^[3]

IV. Adjournment

- i. Adjournment (1 minute)

Attachments

1. Draft Language for Housekeeping Changes to the Campus Code of Conduct – Updated 9.20.2017
2. Cornell FY17 Bias Reporting System Mid-Year Report
3. United States Department of Education September 2017 Q&A on Campus Sexual Misconduct

If you are in need of special accommodations, contact Office of the Assemblies at (607) 255-3715 or Student Disability Services at (607) 254-4545 prior to the meeting.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

September 2017

Q&A on Campus Sexual Misconduct

Under Title IX of the Education Amendments of 1972 and its implementing regulations, an institution that receives federal funds must ensure that no student suffers a deprivation of her or his access to educational opportunities on the basis of sex. The Department of Education intends to engage in rulemaking on the topic of schools' Title IX responsibilities concerning complaints of sexual misconduct, including peer-on-peer sexual harassment and sexual violence. The Department will solicit input from stakeholders and the public during that rulemaking process. In the interim, these questions and answers—along with the *Revised Sexual Harassment Guidance* previously issued by the Office for Civil Rights¹—provide information about how OCR will assess a school's compliance with Title IX.

SCHOOLS' RESPONSIBILITY TO ADDRESS SEXUAL MISCONDUCT

Question 1:

What is the nature of a school's responsibility to address sexual misconduct?

Answer:

Whether or not a student files a complaint of alleged sexual misconduct or otherwise asks the school to take action, where the school knows or reasonably should know of an incident of sexual misconduct, the school must take steps to understand what occurred and to respond appropriately.² In particular, when sexual misconduct is so severe, persistent, or pervasive as to deny or limit a student's ability to participate in or benefit from the school's programs or activities, a hostile environment exists and the school must respond.³

¹ Office for Civil Rights, *Revised Sexual Harassment Guidance* (66 Fed. Reg. 5512, Jan. 19, 2001), available at <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf> [hereinafter 2001 Guidance]; see also Office for Civil Rights, Dear Colleague Letter on Sexual Harassment (Jan. 25, 2006), available at <https://www2.ed.gov/about/offices/list/ocr/letters/sexhar-2006.html>.

² 2001 Guidance at (VII).

³ *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 631 (1999); 34 C.F.R. § 106.31(a); 2001 Guidance at (V)(A)(1). Title IX prohibits discrimination on the basis of sex “under any education program or activity” receiving federal financial assistance, 20 U.S.C. § 1681(a); 34 C.F.R. § 106.1, meaning within the “operations” of a postsecondary institution or school district, 20 U.S.C. § 1687; 34 C.F.R. § 106.2(h). The Supreme Court has explained that the statute “confines the scope of prohibited conduct based on the recipient’s degree of control over the harasser and the environment in which the harassment occurs.” *Davis*, 526 U.S. at 644. Accordingly, OCR has informed institutions that “[a] university does not have a duty under Title IX to address an incident of alleged harassment where the incident occurs off-campus and does not involve a program or activity of the recipient.” Oklahoma State University Determination Letter at 2, OCR Complaint No. 06-03-2054 (June 10, 2004); see also University of Wisconsin-Madison Determination Letter, OCR Complaint No. 05-07-2074 (Aug. 6, 2009) (“OCR determined that the alleged assault did not occur in the context of an educational program or activity operated by the University.”). Schools are responsible for redressing a hostile environment that occurs on campus even if it relates to off-campus activities. Under the Clery Act, postsecondary institutions are obliged to collect and report statistics on crimes that occur on campus, on noncampus properties controlled by the institution or an affiliated student organization and used for educational purposes, on public property within or immediately adjacent to campus, and in areas within the patrol jurisdiction of the campus police or the campus security department. 34 C.F.R. § 668.46(a); 34 C.F.R. § 668.46(c).

Each recipient must designate at least one employee to act as a Title IX Coordinator to coordinate its responsibilities in this area.⁴ Other employees may be considered “responsible employees” and will help the student to connect to the Title IX Coordinator.⁵

In regulating the conduct of students and faculty to prevent or redress discrimination, schools must formulate, interpret, and apply their rules in a manner that respects the legal rights of students and faculty, including those court precedents interpreting the concept of free speech.⁶

THE CLERY ACT AND TITLE IX

Question 2:

What is the Clery Act and how does it relate to a school's obligations under Title IX?

Answer:

Institutions of higher education that participate in the federal student financial aid programs are subject to the requirements of the Clery Act as well as Title IX.⁷ Each year, institutions must disclose campus crime statistics and information about campus security policies as a condition of participating in the federal student aid programs. The Violence Against Women Reauthorization Act of 2013 amended the Clery Act to require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking, and to include certain policies, procedures, and programs pertaining to these incidents in the annual security reports. In October 2014, following a negotiated rulemaking process, the Department issued amended regulations to implement these statutory changes.⁸ Accordingly, when addressing allegations of dating violence, domestic violence, sexual assault, or stalking, institutions are subject to the Clery Act regulations as well as Title IX.

INTERIM MEASURES

Question 3:

What are interim measures and is a school required to provide such measures?

Answer:

Interim measures are individualized services offered as appropriate to either or both the reporting and responding parties involved in an alleged incident of sexual misconduct, prior to an investigation or while an investigation is pending.⁹ Interim measures include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar accommodations.

⁴ 34 C.F.R. § 106.8(a).

⁵ 2001 Guidance at (V)(C).

⁶ Office for Civil Rights, Dear Colleague Letter on the First Amendment (July 28, 2003), *available at* <https://www2.ed.gov/about/offices/list/ocr/firstamend.html>; 2001 Guidance at (XI).

⁷ Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Pub. L. No. 101-542, 20 U.S.C. § 1092(f).

⁸ *See* 34 C.F.R. § 668.46.

⁹ *See* 2001 Guidance at (VII)(A).

It may be appropriate for a school to take interim measures during the investigation of a complaint.¹⁰ In fairly assessing the need for a party to receive interim measures, a school may not rely on fixed rules or operating assumptions that favor one party over another, nor may a school make such measures available only to one party. Interim measures should be individualized and appropriate based on the information gathered by the Title IX Coordinator, making every effort to avoid depriving any student of her or his education. The measures needed by each student may change over time, and the Title IX Coordinator should communicate with each student throughout the investigation to ensure that any interim measures are necessary and effective based on the students' evolving needs.

GRIEVANCE PROCEDURES AND INVESTIGATIONS

Question 4:

What are the school's obligations with regard to complaints of sexual misconduct?

Answer:

A school must adopt and publish grievance procedures that provide for a prompt and equitable resolution of complaints of sex discrimination, including sexual misconduct.¹¹ OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable, including whether the school (i) provides notice of the school's grievance procedures, including how to file a complaint, to students, parents of elementary and secondary school students, and employees; (ii) applies the grievance procedures to complaints filed by students or on their behalf alleging sexual misconduct carried out by employees, other students, or third parties; (iii) ensures an adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; (iv) designates and follows a reasonably prompt time frame for major stages of the complaint process; (v) notifies the parties of the outcome of the complaint; and (vi) provides assurance that the school will take steps to prevent recurrence of sexual misconduct and to remedy its discriminatory effects, as appropriate.¹²

Question 5:

What time frame constitutes a "prompt" investigation?

Answer:

There is no fixed time frame under which a school must complete a Title IX investigation.¹³ OCR will evaluate a school's good faith effort to conduct a fair, impartial investigation in a timely manner designed to provide all parties with resolution.

Question 6:

What constitutes an "equitable" investigation?

¹⁰ 2001 Guidance at (VII)(A). In cases covered by the Clery Act, a school must provide interim measures upon the request of a reporting party if such measures are reasonably available. 34 C.F.R. § 668.46(b)(11)(v).

¹¹ 34 C.F.R. § 106.8(b); 2001 Guidance at (V)(D); *see also* 34 C.F.R. § 668.46(k)(2)(i) (providing that a proceeding which arises from an allegation of dating violence, domestic violence, sexual assault, or stalking must "[i]nclude a prompt, fair, and impartial process from the initial investigation to the final result").

¹² 2001 Guidance at (IX); *see also* 34 C.F.R. § 668.46(k). Postsecondary institutions are required to report publicly the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking, 34 C.F.R. § 668.46 (k)(1)(i), and to include a process that allows for the extension of timeframes for good cause with written notice to the parties of the delay and the reason for the delay, 34 C.F.R. § 668.46 (k)(3)(i)(A).

¹³ 2001 Guidance at (IX); *see also* 34 C.F.R. § 668.46(k)(3)(i)(A).

Answer:

In every investigation conducted under the school's grievance procedures, the burden is on the school—not on the parties—to gather sufficient evidence to reach a fair, impartial determination as to whether sexual misconduct has occurred and, if so, whether a hostile environment has been created that must be redressed. A person free of actual or reasonably perceived conflicts of interest and biases for or against any party must lead the investigation on behalf of the school. Schools should ensure that institutional interests do not interfere with the impartiality of the investigation.

An equitable investigation of a Title IX complaint requires a trained investigator to analyze and document the available evidence to support reliable decisions, objectively evaluate the credibility of parties and witnesses, synthesize all available evidence—including both inculpatory and exculpatory evidence—and take into account the unique and complex circumstances of each case.¹⁴

Any rights or opportunities that a school makes available to one party during the investigation should be made available to the other party on equal terms.¹⁵ Restricting the ability of either party to discuss the investigation (e.g., through “gag orders”) is likely to deprive the parties of the ability to obtain and present evidence or otherwise to defend their interests and therefore is likely inequitable. Training materials or investigative techniques and approaches that apply sex stereotypes or generalizations may violate Title IX and should be avoided so that the investigation proceeds objectively and impartially.¹⁶

Once it decides to open an investigation that may lead to disciplinary action against the responding party, a school should provide written notice to the responding party of the allegations constituting a potential violation of the school's sexual misconduct policy, including sufficient details and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved, the specific section of the code of conduct allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the alleged incident.¹⁷ Each party should receive written notice in advance of any interview or hearing with sufficient time to prepare for meaningful participation. The investigation should result in a written report summarizing the relevant exculpatory and inculpatory evidence. The reporting and responding parties and appropriate officials must have timely and equal access to any information that will be used during informal and formal disciplinary meetings and hearings.¹⁸

INFORMAL RESOLUTIONS OF COMPLAINTS

Question 7:

After a Title IX complaint has been opened for investigation, may a school facilitate an informal resolution of the complaint?

Answer:

If all parties voluntarily agree to participate in an informal resolution that does not involve a full investigation and adjudication after receiving a full disclosure of the allegations and their options for formal resolution and if a school determines that the particular Title IX complaint is appropriate for such a process, the school may facilitate an informal resolution, including mediation, to assist the parties in reaching a voluntary resolution.

¹⁴ 2001 Guidance at (V)(A)(1)-(2); *see also* 34 C.F.R. § 668.46(k)(2)(ii).

¹⁵ 2001 Guidance at (X).

¹⁶ 34 C.F.R. § 106.31(a).

¹⁷ 2001 Guidance at (VII)(B).

¹⁸ 34 C.F.R. § 668.46(k)(3)(i)(B)(3).

DECISION-MAKING AS TO RESPONSIBILITY

Question 8:

What procedures should a school follow to adjudicate a finding of responsibility for sexual misconduct?

Answer:

The investigator(s), or separate decision-maker(s), with or without a hearing, must make findings of fact and conclusions as to whether the facts support a finding of responsibility for violation of the school's sexual misconduct policy. If the complaint presented more than a single allegation of misconduct, a decision should be reached separately as to each allegation of misconduct. The findings of fact and conclusions should be reached by applying either a preponderance of the evidence standard or a clear and convincing evidence standard.¹⁹

The decision-maker(s) must offer each party the same meaningful access to any information that will be used during informal and formal disciplinary meetings and hearings, including the investigation report.²⁰ The parties should have the opportunity to respond to the report in writing in advance of the decision of responsibility and/or at a live hearing to decide responsibility.

Any process made available to one party in the adjudication procedure should be made equally available to the other party (for example, the right to have an attorney or other advisor present and/or participate in an interview or hearing; the right to cross-examine parties and witnesses or to submit questions to be asked of parties and witnesses).²¹ When resolving allegations of dating violence, domestic violence, sexual assault, or stalking, a postsecondary institution must "[p]rovide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice."²² In such disciplinary proceedings and any related meetings, the institution may "[n]ot limit the choice of advisor or presence for either the accuser or the accused" but "may establish restrictions regarding the extent to which the advisor may participate in the proceedings."²³

Schools are cautioned to avoid conflicts of interest and biases in the adjudicatory process and to prevent institutional interests from interfering with the impartiality of the adjudication. Decision-making techniques or approaches that apply sex stereotypes or generalizations may violate Title IX and should be avoided so that the adjudication proceeds objectively and impartially.

¹⁹ The standard of evidence for evaluating a claim of sexual misconduct should be consistent with the standard the school applies in other student misconduct cases. In a recent decision, a court concluded that a school denied "basic fairness" to a responding party by, among other things, applying a lower standard of evidence only in cases of alleged sexual misconduct. *Doe v. Brandeis Univ.*, 177 F. Supp. 3d 561, 607 (D. Mass. 2016) ("[T]he lowering of the standard appears to have been a deliberate choice by the university to make cases of sexual misconduct easier to prove—and thus more difficult to defend, both for guilty and innocent students alike. It retained the higher standard for virtually all other forms of student misconduct. The lower standard may thus be seen, in context, as part of an effort to tilt the playing field against accused students, which is particularly troublesome in light of the elimination of other basic rights of the accused."). When a school applies special procedures in sexual misconduct cases, it suggests a discriminatory purpose and should be avoided. A postsecondary institution's annual security report must describe the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking. 34 C.F.R. § 668.46(k)(1)(ii).

²⁰ 34 C.F.R. § 668.46(k)(3)(i)(B)(3).

²¹ A school has discretion to reserve a right of appeal for the responding party based on its evaluation of due process concerns, as noted in Question 11.

²² 34 C.F.R. § 668.46(k)(2)(iii).

²³ 34 C.F.R. § 668.46(k)(2)(iv).

DECISION-MAKING AS TO DISCIPLINARY SANCTIONS

Question 9:

What procedures should a school follow to impose a disciplinary sanction against a student found responsible for a sexual misconduct violation?

Answer:

The decision-maker as to any disciplinary sanction imposed after a finding of responsibility may be the same or different from the decision-maker who made the finding of responsibility. Disciplinary sanction decisions must be made for the purpose of deciding how best to enforce the school's code of student conduct while considering the impact of separating a student from her or his education. Any disciplinary decision must be made as a proportionate response to the violation.²⁴ In its annual security report, a postsecondary institution must list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking.²⁵

NOTICE OF OUTCOME AND APPEALS

Question 10:

What information should be provided to the parties to notify them of the outcome?

Answer:

OCR recommends that a school provide written notice of the outcome of disciplinary proceedings to the reporting and responding parties concurrently. The content of the notice may vary depending on the underlying allegations, the institution, and the age of the students. Under the Clery Act, postsecondary institutions must provide simultaneous written notification to both parties of the results of the disciplinary proceeding along with notification of the institution's procedures to appeal the result if such procedures are available, and any changes to the result when it becomes final.²⁶ This notification must include any initial, interim, or final decision by the institution; any sanctions imposed by the institution; and the rationale for the result and the sanctions.²⁷ For proceedings not covered by the Clery Act, such as those arising from allegations of harassment, and for all proceedings in elementary and secondary schools, the school should inform the reporting party whether it found that the alleged conduct occurred, any individual remedies offered to the reporting party or any sanctions imposed on the responding party that directly relate to the reporting party, and other steps the school has taken to eliminate the hostile environment, if the school found one to exist.²⁸ In an elementary or secondary school, the notice should be provided to the parents of students under the age of 18 and directly to students who are 18 years of age or older.²⁹

²⁴ 34 C.F.R. § 106.8(b); 2001 Guidance at (VII)(A).

²⁵ 34 C.F.R. § 668.46(k)(1)(iii).

²⁶ 34 C.F.R. § 668.46(k)(2)(v). The Clery Act applies to proceedings arising from allegations of dating violence, domestic violence, sexual assault, and stalking.

²⁷ 34 C.F.R. § 668.46(k)(3)(iv).

²⁸ A sanction that directly relates to the reporting party would include, for example, an order that the responding party stay away from the reporting party. *See* 2001 Guidance at vii n.3. This limitation allows the notice of outcome to comply with the requirements of the Family Educational Rights and Privacy Act. *See* 20 U.S.C. § 1232g(a)(1)(A); 34 C.F.R. § 99.10; 34 C.F.R. § 99.12(a). FERPA provides an exception to its requirements only for a postsecondary institution to communicate the results of a disciplinary proceeding to the reporting party in cases of alleged crimes of violence or specific nonforcible sex offenses. 20 U.S.C. § 1232g(b)(6); 34 C.F.R. § 99.31(a)(13).

²⁹ 20 U.S.C. § 1232g(d).

Question 11:

How may a school offer the right to appeal the decision on responsibility and/or any disciplinary decision?

Answer:

If a school chooses to allow appeals from its decisions regarding responsibility and/or disciplinary sanctions, the school may choose to allow appeal (i) solely by the responding party; or (ii) by both parties, in which case any appeal procedures must be equally available to both parties.³⁰

EXISTING RESOLUTION AGREEMENTS

Question 12:

In light of the rescission of OCR's 2011 Dear Colleague Letter and 2014 Questions & Answers guidance, are existing resolution agreements between OCR and schools still binding?

Answer:

Yes. Schools enter into voluntary resolution agreements with OCR to address the deficiencies and violations identified during an OCR investigation based on Title IX and its implementing regulations. Existing resolution agreements remain binding upon the schools that voluntarily entered into them. Such agreements are fact-specific and do not bind other schools. If a school has questions about an existing resolution agreement, the school may contact the appropriate OCR regional office responsible for the monitoring of its agreement.

Note: The Department has determined that this Q&A is a significant guidance document under the Final Bulletin for Agency Good Guidance Practices of the Office of Management and Budget, 72 Fed. Reg. 3432 (Jan. 25, 2007). This document does not add requirements to applicable law. If you have questions or are interested in commenting on this document, please contact the Department of Education at ocr@ed.gov or 800-421-3481 (TDD: 800-877-8339).

³⁰ 2001 Guidance at (IX). Under the Clery Act, a postsecondary institution must provide simultaneous notification of the appellate procedure, if one is available, to both parties. 34 C.F.R. § 668.46(k)(2)(v)(B). OCR has previously informed schools that it is permissible to allow an appeal only for the responding party because "he/she is the one who stands to suffer from any penalty imposed and should not be made to be tried twice for the same allegation." Skidmore College Determination Letter at 5, OCR Complaint No. 02-95-2136 (Feb. 12, 1996); *see also* Suffolk University Law School Determination Letter at 11, OCR Complaint No. 01-05-2074 (Sept. 30, 2008) ("[A]ppeal rights are not necessarily required by Title IX, whereas an accused student's appeal rights are a standard component of University disciplinary processes in order to assure that the student is afforded due process before being removed from or otherwise disciplined by the University."); University of Cincinnati Determination Letter at 6, OCR Complaint No. 15-05-2041 (Apr. 13, 2006) ("[T]here is no requirement under Title IX that a recipient provide a victim's right of appeal.").

Draft Language for Housekeeping Changes to the Campus Code of Conduct

Proposed language to address to the suspension length, definition, and reporting date for organizations

Current Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017).	Proposed Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017).
<p>4. Limitations Period Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:</p> <p>a. In cases where the charge involves fraud, the period shall be one calendar year from the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud.</p> <p>b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later.</p> <p>c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President</p>	<p>4. Limitations Period Any charge of a violation of this Code must be initiated by the filing of charges by the Judicial Administrator within one calendar year of the date of the alleged violation. Exceptions to this policy that extend the period beyond one year are:</p> <p>a. In cases where the charge involves fraud, the period shall be one calendar year from the alleged fraud or 60 calendar days from the filing of a complaint alleging fraud, whichever is longer, but in any event no more than three calendar years from the alleged fraud.</p> <p>b. In cases where the individual to be charged is absent from the University because of either (1) a leave of absence, (2) a termination of employment, or (3) a withdrawal as a student, a charge may be brought within one calendar year of the alleged violation or within 60 calendar days of his or her return to the jurisdiction of the University judicial system, whichever is later.</p> <p>c. In cases where the individual to be charged is facing public prosecution involving the same matters, a charge may be brought within 60 calendar days of the final disposition of such prosecution. Should it appear that the individual will leave the University before such time, the President</p>

<p>or his or her designee may cause the individual's degree to be withheld for the period in which the Judicial Administrator may file charges.</p> <p>d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.</p>	<p>or his or her designee may cause the individual's degree to be withheld for the period in which the Judicial Administrator may file charges.</p> <p>d. In cases where the Respondent is a University-Registered Organization the period shall be no more than three calendar years from the alleged violation.</p> <p>e.-d. The Judicial Administrator may request a Hearing Board Chair to extend any limitations period by up to an additional six calendar months, without required notice to any other person but upon a showing of special circumstances justifying such an extension, provided that the Judicial Administrator delivers such written request to a Hearing Board Chair prior to the expiration of that period.</p>
<p>(Title Three, Art. IV, Sec. A.1.c.6 (pg. 25, 2017).</p> <p>(6) Suspension of all privileges for a stated period not to exceed one year.</p>	<p>(Title Three, Art. IV, Sec. A.1.c.6 (pg. 25, 2017).</p> <p>(6) Suspension of all privileges for a stated period not to exceed one year five years.</p>

Proposed language to address to immediate suspension for non-compliance of sanctions

Current Language (Title Three, Art. IV, Sec. C.2 (pg. 36, 2017).	Proposed Language (Title Three, Art. III, Sec. D.4 (pg. 24, 2017).
<p>2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator shall notify the University Registrar, Office of the Dean of Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.</p>	<p>2. If an offender has not complied with the prescribed penalty or remedy within the specified time, the Judicial Administrator shall may¹ notify the University Registrar, Office of the Dean of Students, and other offices on a need-to-know basis that the individual or organization is suspended, and the suspension shall have immediate effect and continue until the offender has complied. For any violation of the terms of probation committed during the probationary period, the Judicial Administrator may impose on the offender additional penalties, including suspension or dismissal. The offender may request an appearance before the Judicial Administrator in order to show the fact of compliance, to contest the violation of probation, or to argue for a lesser penalty. The offender may petition the University Hearing Board in writing for a review of the penalty imposed by the Judicial Administrator for noncompliance or for violating probation.</p>
<p>N/A</p>	<p>(Title Three, Art. II, Sec. A.3 (pg. 18, 2017).</p> <p>(m) To refuse to comply with any valid penalty or remedy dispensed by the Office of the Judicial Administrator and/or University Hearing or Review Board lawful order of a clearly identifiable University official acting in the performance of his or her duties, or with a policy that has been duly promulgated by the University or any college, department, or unit thereof, whether or not the policy has been issued in the standardized University format.²</p>

¹ The term “may” will preserve the rare instances of addressing, for example, serious violations of NCDs.

² Same language as Title IV; some language from peer-institutions will be shared.

Proposed language to role of non-matriculated minors

Current Language (Title Two, Art. I, Sec. B.2 (pg. 10, 2017).	Proposed Language (Title Two, Art. I, Sec. B.2 (pg. 10, 2017).
<p>1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:</p> <ul style="list-style-type: none"> a. a degree candidate in any of Cornell’s undergraduate or graduate divisions; b. a special student in the undergraduate divisions; or c. a non-degree-candidate in the graduate school. <p>2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:</p> <ul style="list-style-type: none"> a. currently enrolled in or taking classes at the University; b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or c. currently on leave of absence or under suspension from being a student of the University. 	<p>1. The term student shall be interpreted to mean any person, whether or not incidentally on the University payroll, who is currently registered with the University as:</p> <ul style="list-style-type: none"> a. a degree candidate in any of Cornell’s undergraduate or graduate divisions; b. a special student in the undergraduate divisions; or c. a non-degree-candidate in the graduate school. <p>2. The term student shall be interpreted to mean also persons not officially registered, and not faculty members or other University employees, if they are:</p> <ul style="list-style-type: none"> a. currently enrolled in or taking classes at the University, with the exclusion of any individual enrolled in or taking classes at the University while still an elementary, middle, high school student, or foreign equivalent, so long as such individuals are subject to written behavioral expectations, policies or procedures; b. currently using University facilities or property, or the property of a University-related residential organization, in connection with academic activities; or c. currently on leave of absence or under suspension from being a student of the University.

Commented [MB1]: The committee has discussed having a procedure where a policy can be “laid before the committee” should someone object to it (to ensure it abides by the standards of the Community) for approval and/or disapproval.

The committee has also discussed having a carve out for high-school students to retain some or all the procedural protections/freedom of expression privileges in the code.

Proposed language regarding removal of indefinite suspension

Current Language (Title Three, Art. II, Sec. E.1.c (pg. 24, 2017).	Proposed Language (Title Three, Art. II, Sec. E.1.c (pg. 24, 2017).
I. Circumstances Requiring Hearing c. The offender may petition in writing for readmission from indefinite suspension.	Circumstances Requiring Hearing e. The offender may petition in writing for readmission from indefinite suspension.
(Title Three, Art. IV, Sec. A.1.a.8 (pg. 34, 2017). (8) Suspension from the University for a stated period not to exceed five years, or indefinitely with the right to petition the University Hearing Board in writing at any time for readmission after the academic term following the academic term in which the suspension occurred. Such petition shall be submitted no later than April 1 if the petition is for readmission for the fall semester and by November 1 if the petition is for readmission for the spring semester. If the Judicial Administrator agrees with the petition of the accused, he or she may permit the readmission without the petition being considered by the University Hearing Board, after consulting with appropriate professional colleagues and receiving approval of a Hearing Board Chair. If the University Hearing Board denies the petition, the accused may not petition again until the next semester and, in any event, may not petition for readmission for the same semester denied by the University Hearing Board. While on such suspension, the student may not obtain academic credit at Cornell or elsewhere toward the completion of a Cornell degree.	(Title Three, Art. IV, Sec. A.1.a.8 (pg. 34, 2017). (8) Suspension from the University for a stated period not to exceed five years. or indefinitely with the right to petition the University Hearing Board in writing at any time for readmission after the academic term following the academic term in which the suspension occurred. Such petition shall be submitted no later than April 1 if the petition is for readmission for the fall semester and by November 1 if the petition is for readmission for the spring semester. If the Judicial Administrator agrees with the petition of the accused, he or she may permit the readmission without the petition being considered by the University Hearing Board, after consulting with appropriate professional colleagues and receiving approval of a Hearing Board Chair. If the University Hearing Board denies the petition, the accused may not petition again until the next semester and, in any event, may not petition for readmission for the same semester denied by the University Hearing Board. While on such suspension, the student may not obtain academic credit at Cornell or elsewhere toward the completion of a Cornell degree.
(Title Three, Art. IV, Sec. A.2.b (pg. 34, 2017). b. Ordinarily, the penalty for a third violation by a student within a twelve-month period should be probation or suspension from the University for a stated or indefinite period and denial of academic credit for the term in which the suspension occurs. The penalty may be reduced if a lesser penalty would more appropriately serve the interests of justice and if, in addition, the offender expressly agrees not to engage in misconduct of specified kinds in the next twelve months.	(Title Three, Art. IV, Sec. A.2.b (pg. 34, 2017). b. Ordinarily, the penalty for a third violation by a student within a twelve-month period should be probation or suspension from the University for a stated or indefinite period and denial of academic credit for the term in which the suspension occurs. The penalty may be reduced if a lesser penalty would more appropriately serve the interests of justice and if, in addition, the offender expressly agrees not to engage in misconduct of specified kinds in the next twelve months.

In such a case of indefinite suspension, the offender may petition the University Hearing Board in writing for readmission, but no application for readmission for the academic term following the academic term in which the suspension occurred will be permitted	In such a case of indefinite suspension, the offender may petition the University Hearing Board in writing for readmission, but no application for readmission for the academic term following the academic term in which the suspension occurred will be permitted
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Proposed language regarding misuse of confidential information

Current Language (Title Three, Art. II, Sec. A.2.d (pg. 17, 2017).	Proposed Language (Title Three, Art. II, Sec. A.2.d (pg. 17, 2017).
<p>2. It shall be a violation of this Title, as an offense against the University:</p> <p>d. To (1) forge, fraudulently alter, willfully falsify, or otherwise misuse University or non-University documents (including computerized or noncomputerized records, parking permits, dining cards, identification cards, other permits or cards, reserve books, or other property), or (2) possess such forged, altered, or falsified documents, or (3) unlawfully possess the identification of another person if that identification has a date of birth that would make the person legal to consume alcohol at a time the accused is not of a legal drinking age.</p>	<p>2. It shall be a violation of this Title, as an offense against the University:</p> <p>d. To (1) forge, fraudulently alter, willfully falsify, or otherwise misuse University or non-University documents (including computerized or noncomputerized records, parking permits, dining cards, identification cards, other permits or cards, reserve books, or other property), or (2) possess such forged, altered, or falsified documents, or (3) unlawfully possess the identification of another person if that identification has a date of birth that would make the person legal to consume alcohol at a time the accused is not of a legal drinking age, or (4) disclose University documents denoted in writing to be confidential where an individual has previously assented to described terms of confidentiality.</p>

Proposed language clarifying UHRB appointment procedures

Current Language (Title Two, Art. IV, Sec. C.3 (pg. 14-15 2017).	Proposed Language (Title Two, Art. IV, Sec. C.3 (pg. 14-15 2017).
<p>3. Members of the University Hearing Board and University Review Board pool shall serve terms of office as follows:</p> <p>a. All members shall be appointed for two-year staggered terms.</p> <p>b. Terms of office shall begin June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency shall become effective immediately.</p> <p>c. The Chair of the Hearing Board or Review Board shall have the authority to remove a member of the pool if the member is</p>	<p>3. Members of the University Hearing Board and University Review Board pool shall serve terms of office as follows:</p> <p>a. All members shall be appointed for two-year staggered terms, except for students entering their final year of study, who shall be appointed for one-year terms.</p> <p>b. Terms of office shall begin June 1 of the year appointed. Any appointment to fill a vacancy or to address an emergency shall become effective immediately.</p>

<p>not honoring his/her commitment to the university to communicate promptly with the Chair or the Judicial Administrator's office, to participate in hearings, to arrive punctually, and otherwise to participate responsibly in this process.</p>	<p>c. Currently serving members may be appointed for additional terms if reconfirmed by the University Assembly after review by the Codes and Judicial Committee.</p> <p>d. The Chair of the Hearing Board or Review Board shall have the authority to remove a member of the pool if the member is not honoring his/her commitment to the university to communicate promptly with the Chair or the Judicial Administrator's office, to participate in hearings, to arrive punctually, and otherwise to participate responsibly in this process.</p>
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Proposed language clarifying JA appointment procedures

Current Language (Title Two, Art. II, Sec. A.3 (pg. 12 2017).	Proposed Language (Title Two, Art. II, Sec. A.3 (pg. 12 2017).
<p>3. The Judicial Administrator shall be appointed for a two-year term. A Judicial Administrator can be reappointed for additional terms. In October of the year preceding the expiration of the term of the Judicial Administrator, or upon the University Assembly chair's receipt of notice of the Judicial Administrator's resignation or removal, the chair shall convene a six-member search committee, including two members appointed by the President and four members appointed by the University Assembly, to propose two or more nominees to the President. The President shall appoint a candidate with the concurrence of the University Assembly. In the event of an unexpected vacancy, the Associate Judicial Administrator shall be appointed by the President, with the concurrence of the University Assembly, to serve until a permanent Judicial Administrator is appointed.</p>	<p>3. The Judicial Administrator shall be appointed for a two-year term. A Judicial Administrator can be reappointed for additional terms. In October of the year</p> <p>a. Six months preceding the expiration of the term of the Judicial Administrator, the chair of the University Assembly shall convene a six-member committee, including two members appointed by the President, two members appointed by the University Assembly, the chair of the Codes and Judicial Committee, and the Judicial Codes Counselor to provide feedback to the Judicial Administrator and evaluate their term. The committee will internally elect a chair and shall make a recommendation to the President either in favor or against the Judicial Administrator being nominated for an additional term. Such recommendation must be made at least four months prior to the expiration of the current term. or</p> <p>b. Upon the University Assembly chair's receipt of notice of the Judicial Administrator's resignation or removal, the</p>

Commented [MB2]: The Committee discussed increasing the lead time to six months and requiring that a recommendation be made at least four months prior to the expiration of a current term.

	<p>chair shall convene a six-member search committee, including two members appointed by the President and four members appointed by the University Assembly, to propose two or more nominees to the President.</p> <p>The President shall appoint or reappoint a candidate with the concurrence of the University Assembly. In the event of an unexpected vacancy, the Associate Judicial Administrator shall be appointed by the President, with the concurrence of the University Assembly, to serve until a permanent Judicial Administrator is appointed.</p>
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Proposed language adding discretion to No Contact Directive procedures

Current Language (Title Three, Art. III, Sec. B.2 (pg. 19, 2017).	Proposed Language (Title Three, Art. III, Sec. B.2 (pg. 19, 2017).
<p>a. In cases involving allegations of harassment, abuse, assault, rape, or other menacing activity, the Judicial Administrator, after making a reasonable effort to meet with the accused if appropriate to do so, may issue a No-Contact Directive.</p> <p>b. The Judicial Administrator shall make available to the accused the exact terms of the No-Contact Directive, as soon as it is issued.</p> <p>c. In the event the Judicial Administrator is notified of a violation of the terms of the NoContact Directive, the accused shall be provided with an opportunity to review the matter with the Judicial Administrator within two business days. If the Judicial Administrator determines, based upon the information available, that the No-Contact Directive has been violated, he or she may suspend the accused temporarily, pending resolution of the underlying case.</p>	<p>a. In cases involving allegations of harassment, abuse, assault, rape, or other menacing activity, the Judicial Administrator, after making a reasonable effort to meet with the accused if appropriate to do so, may issue a No-Contact Directive, binding upon all involved parties.</p> <p>b. The Judicial Administrator shall make available to the accused the exact terms of the No-Contact Directive, as soon as it is issued.</p> <p>c. In the event the Judicial Administrator is notified of a violation of the terms of the No-Contact Directive, the accused shall be provided with an opportunity to review the matter with the Judicial Administrator within two business days. If the Judicial Administrator determines, based upon the information available, that the No-Contact Directive has been violated, he or she may impose additional interim measures or suspend the accused temporarily, pending resolution of the underlying case.</p>



Cornell University

FY17 REPORTING BIAS SYSTEM MID-YEAR REPORT

Summary of Activity July 1, 2016 – December 31, 2016

BIAS:

Reporting Bias

Have you ...
Seen It, Heard It,
or Experienced It?



For more information,
please contact the
Department of Inclusion
and Workforce Diversity:

Phone: (607) 255-1426

Email: Report_Bias@cornell.edu

Web: www.hr.cornell.edu/diversity/reporting

To Report: <http://biasconcerns.cornell.edu>



Cornell University

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Executive Summary

Commitment to Inclusion

A diverse community includes everyone and is the foundation for the meaningful exploration and exchange of ideas. Since its founding, Cornell University has encouraged a culture that provides for the full participation of all members of our campus community—this keeps us at the leading edge in education and in our fields and practices. Cornell University is a place where intercultural skills are developed and enacted among diverse campus constituencies, with community partners, and within the classroom and workplace.

The University remains committed to devising strategies and structures to allow for the enactment of swift and appropriate responses to reports of bias, discrimination, harassment, and sexual misconduct. Throughout the academic year, the Department of Inclusion and Workforce Diversity engages those involved in the bias reporting process—including the Bias Assessment and Review Team (BART) members and the constituent assemblies—to gather feedback, to propose structural and procedural changes to the Reporting Bias System, and to make recommendations on programs, policies, and ongoing educational interventions.

Mid-Year Snapshot

Reports of bias, discrimination, and harassment increased from 45 reported incidents in mid-year FY16 to 136 reported incidents in mid-year FY17. Of these, 111 were unique incidents. Consistent with last year, the most frequently reported nature of concern was race/color with 57 reported incidents. Of particular note is the frequency of incidents reported as other/no status indicated with 41 total reports. These are incidents that are not based on a protected-status, but are based on some other factor or characteristic. Over 20 of the reports received in this period were based on an individual's political affiliation or ideology. Other frequently reported categories included ethnicity (35), national origin (26), and gender/gender identity/expression (20). The vast majority of reported incidents occurred on campus, reaching 75 reported incidents. Incidents occurring online or on social media increased to 44.

Reports of sexual and related misconduct, including sexual assault, sexual harassment, dating violence, domestic violence, and stalking, reached a total of 139 reported incidents in FY17, a 98 percent increase from mid-year FY16. This includes reports made anonymously and reports against faculty, staff, students, and third parties unaffiliated with the university. Of the reported incidents, there were 39 allegations of sexual assault and 73 allegations of sexual harassment, including those occurring in the workplace. The majority of complainants, at over 71 percent, were identified as female. The majority of the complainants involved, at 51 percent, were undergraduate students. The highest proportion of respondents, reaching 39 percent, were classified as third party or unknown. These numbers may fluctuate significantly by the time of fiscal year-end reporting as new information becomes available as a result of ongoing investigations or otherwise.

Reporting Bias, Discrimination & Harassment

What is Tracked and Why?

The Department of Inclusion and Workforce Diversity is responsible for collecting and tracking all reported bias activity occurring at Cornell University that could potentially impact our commitment to diversity and inclusion, including all reports made by faculty, staff, students, and visitors to the Ithaca, Geneva, Weill Cornell Medicine, and Cornell NYC Tech campuses.

Under Cornell's specific definition, a bias incident is an act of bigotry, harassment, or intimidation that occurs on a Cornell campus or within an area that impacts the Cornell community and that one could reasonably conclude is directed at a member or a group of the Cornell community because of that individual's or group's actual or perceived age, color, creed, disability, ethnicity, gender, gender identity or expression, marital status, national origin, race, religion, sexual orientation, veteran status or any combination of these or related factors. Cornell utilizes its Reporting Bias System to track and respond to bias incidents in which the perpetrators are known, unknown, or may not be readily identifiable.

Pursuant to the university's obligation to keep the community informed of bias activity that impacts the campus, incident summaries and aggregate data of reported incidents are published online for public viewing. This information is updated monthly and can be found at: diversity.cornell.edu/addressing-bias-activity.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires universities to annually disclose crime statistics, including bias-related hate crimes. This information can be found in the Annual Security Report: cupolice.cornell.edu

Reporting an Incident

Reporting bias and the resulting efforts to understand and prevent bias activity are a matter of taking part in a caring community. Anyone who directly witnesses or experiences bias activity on the Cornell campus or in an area that impacts the Cornell community should intervene in the moment as appropriate (e.g., contact Cornell Police at 911, if a crime is in progress, or interrupt the behavior in as much as the observer feels skilled and safe), and be sure to also report the incident as soon as possible. To report an incident, individuals can use one of the following methods:

- **By submitting** an incident report online at biasconcerns.cornell.edu
- **By emailing:** report_bias@cornell.edu
- **By contacting** the Department of Inclusion & Workforce Diversity at (607) 255-1426
- **By consulting** with a Discrimination & Harassment Advisor hr.cornell.edu/diversity/reporting/
- **By contacting** the Cornell University Police Department (CUPD) at (607) 255-1111 or 911 for emergency assistance.

Please note that all activity reported may not rise to the level of a bias crime or other actionable event. The University does, however, take appropriate steps to address all reports received, including anonymous reports.

Bias Assessment & Review Team (BART)

To facilitate the assessment of bias incidents and the appropriate intervention steps, reported incidents are routed to the BART—the coordinating hub of a network of existing bias liaisons from across the university. The BART may refer reports to the appropriate university unit—such as Workforce Policy and Labor Relations and the Judicial Administrator—or work collaboratively with campus partners to determine the best method of intervention to address the matter.

The BART brings together a variety of individuals from across the university. Members for the 2016-17 academic year included:

Ulysses Smith – *Lead Diversity & Inclusion Strategist, Department of Inclusion & Workforce Diversity*

Theoria Cason – *Assistant Director, Residential & New Student Programs*

Denise Zajac – *Assistant Dean of Students; Dean of Students Office*

Alan Mittman – *Senior Advisor to the Vice President of Student & Campus Life*

Dave Honan – *Deputy Chief, Cornell University Police*

Laura Weiss – *Associate Dean of Students; Director, Women’s Resource Center*

Sophie Sidhu – *Associate Dean of Students; Director, Asian & Asian American Center*

Wai-Kwong Wong – *Counseling & Psychological Services, Cornell Health*

Brian Patchcoski – *Associate Dean of Students; Director, LGBT Resource Center*

Evelyn Ambriz – *Assistant Dean of Students, Student Development Diversity Initiatives; 6-2-6*

Sarah Wattenberg – *Assistant Director of Athletics for Student Services*

Christina Liang – *Associate Judicial Administrator*

Timothy Fair – *Assistant Director, Fraternity & Sorority Affairs*

Dan McMullin – *Associate Director, Cornell United Religious Work*

Laurie Johnston – *Senior Director, Workforce Policy & Labor Relations*

Jess Cisco – *Senior Human Resources Consultant*

In addition to these members, staff from key units attend the team meeting to address specific situations on an as-needed basis. These units include but are not limited to the following:

Human Resources

International Students & Scholars Office

Gannett Health Services

Crisis Managers

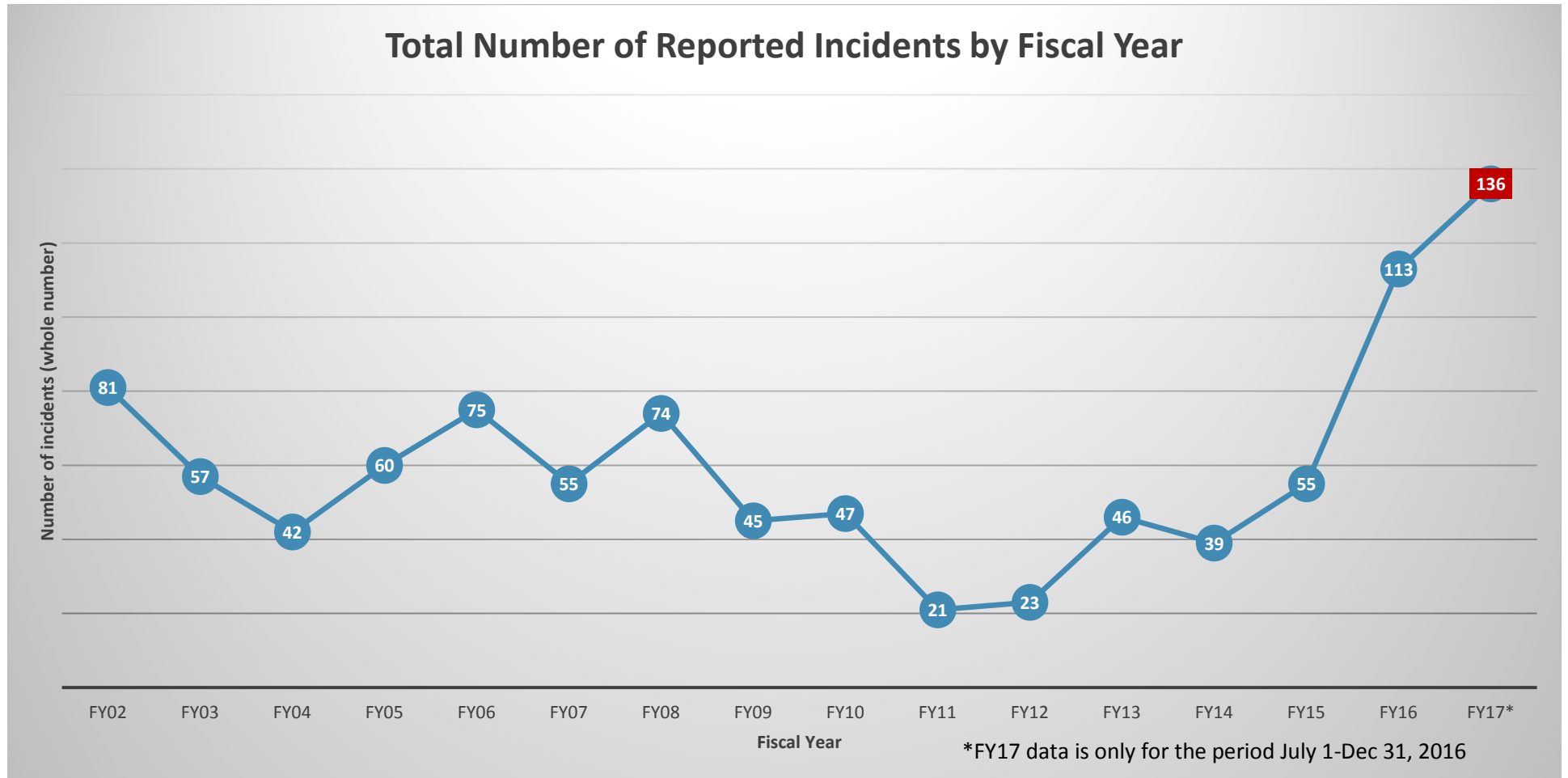
Undergraduate Advising

Grad/Prof Schools

Office of University Counsel

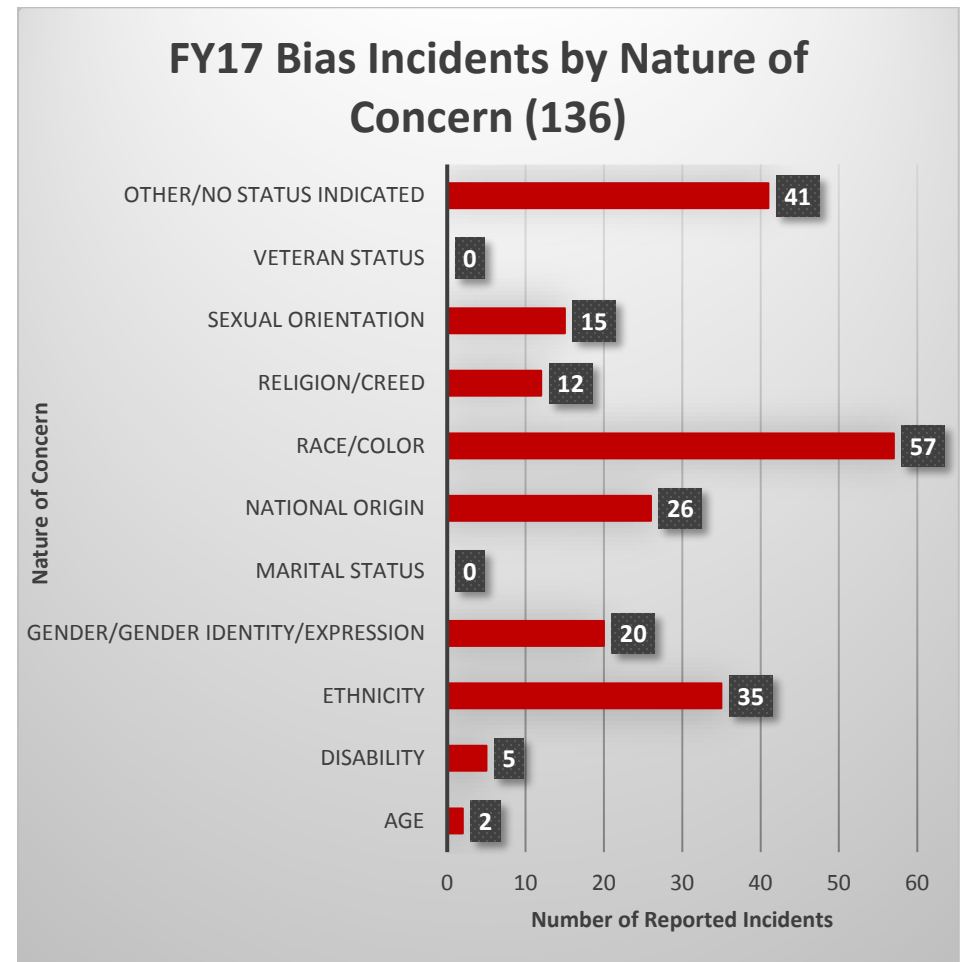
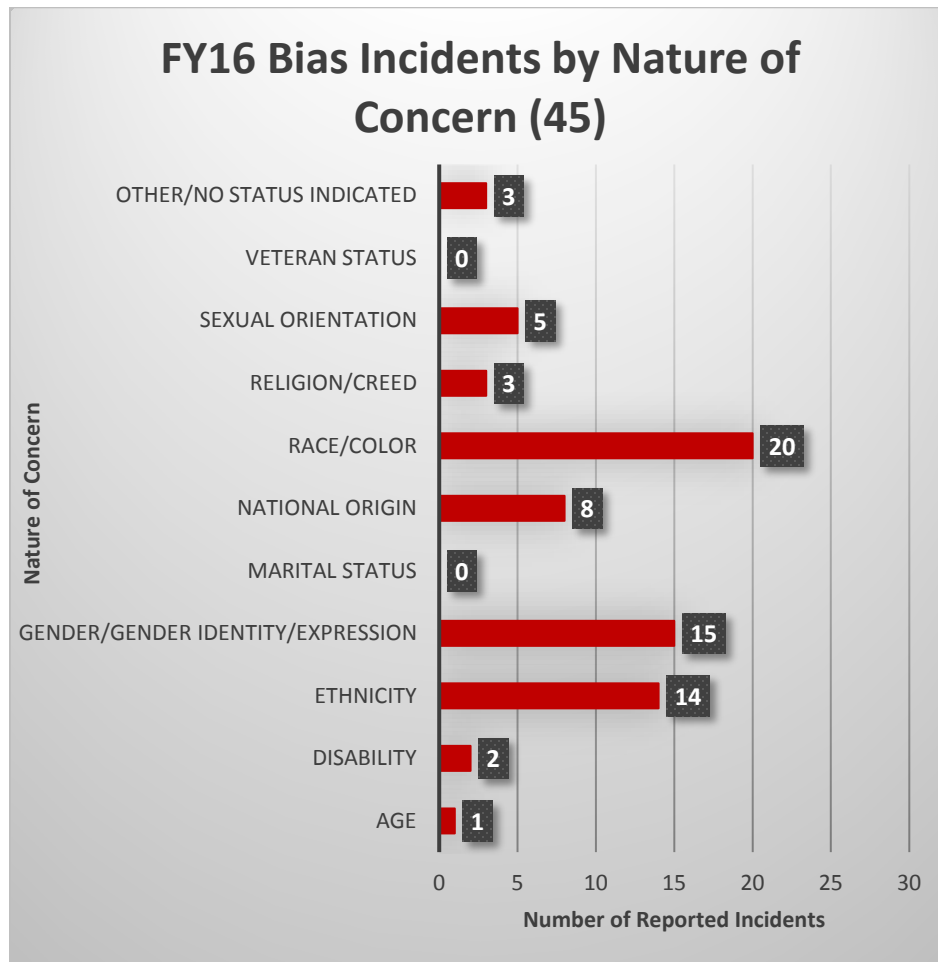
Student Disability Services

Reporting Bias over the Years: 2002-2016



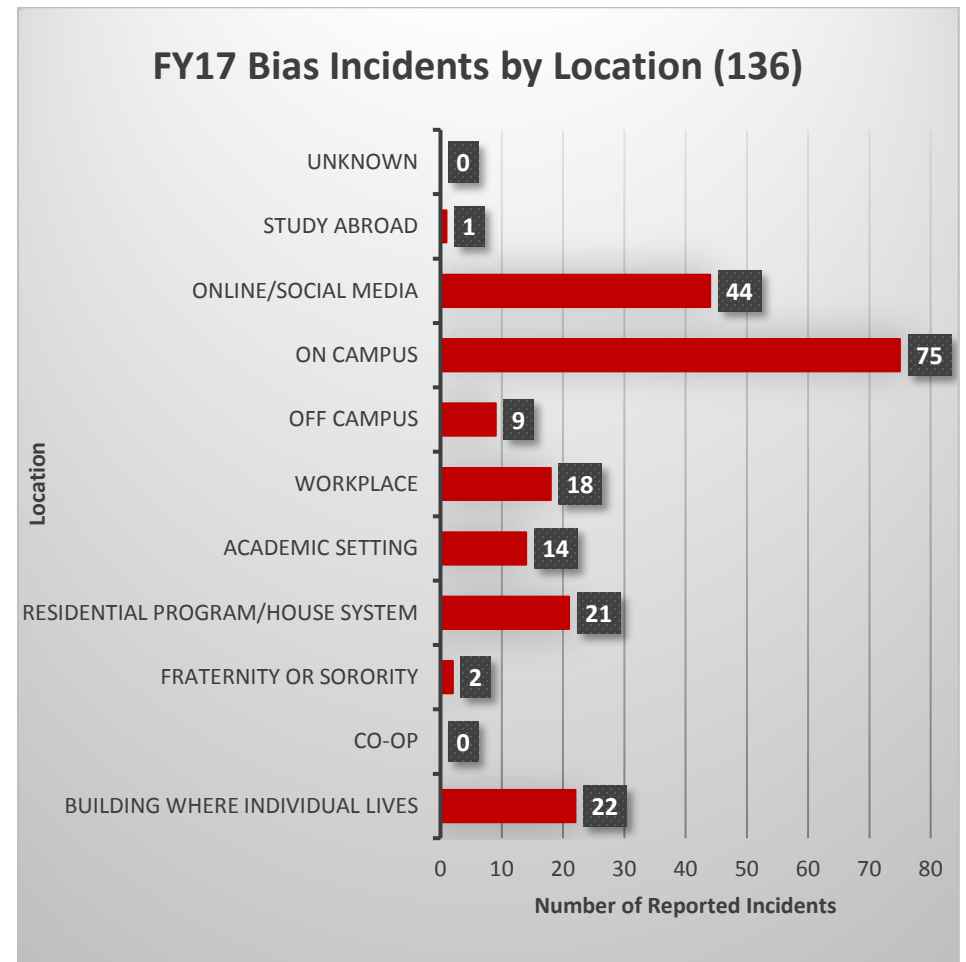
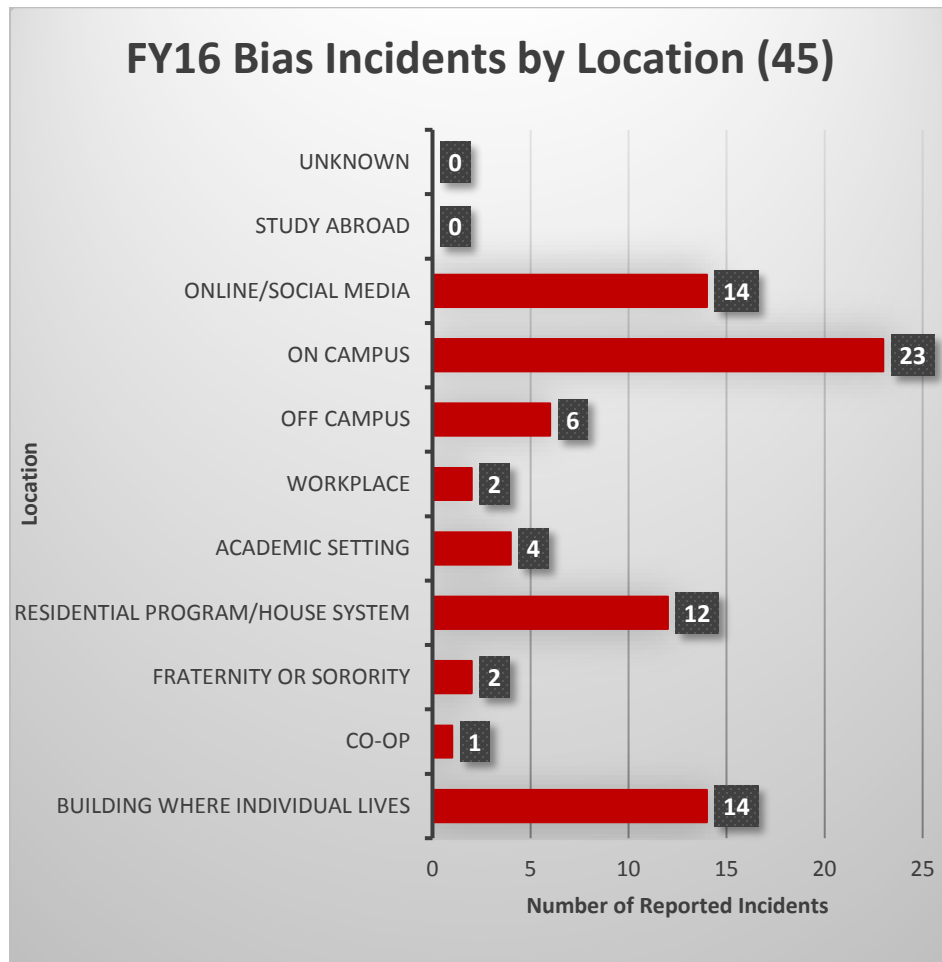
All bias data is presented by fiscal year (July 1 – June 30). To identify trends, the data is viewed comparatively across each fiscal year. Between FY15 and FY16, the number of reported incidents increased by 105 percent. As of December 31, 2016 the number of reported incidents for FY17 stood at 136, a 20 percent increase in reported activity. The data reflects unique reports, so reports about the same incident from different reporters are counted separately. The total number of reports of unique incidents (all reports of the same incident consolidated) is 111.

Bias: What is the Nature of Concern?



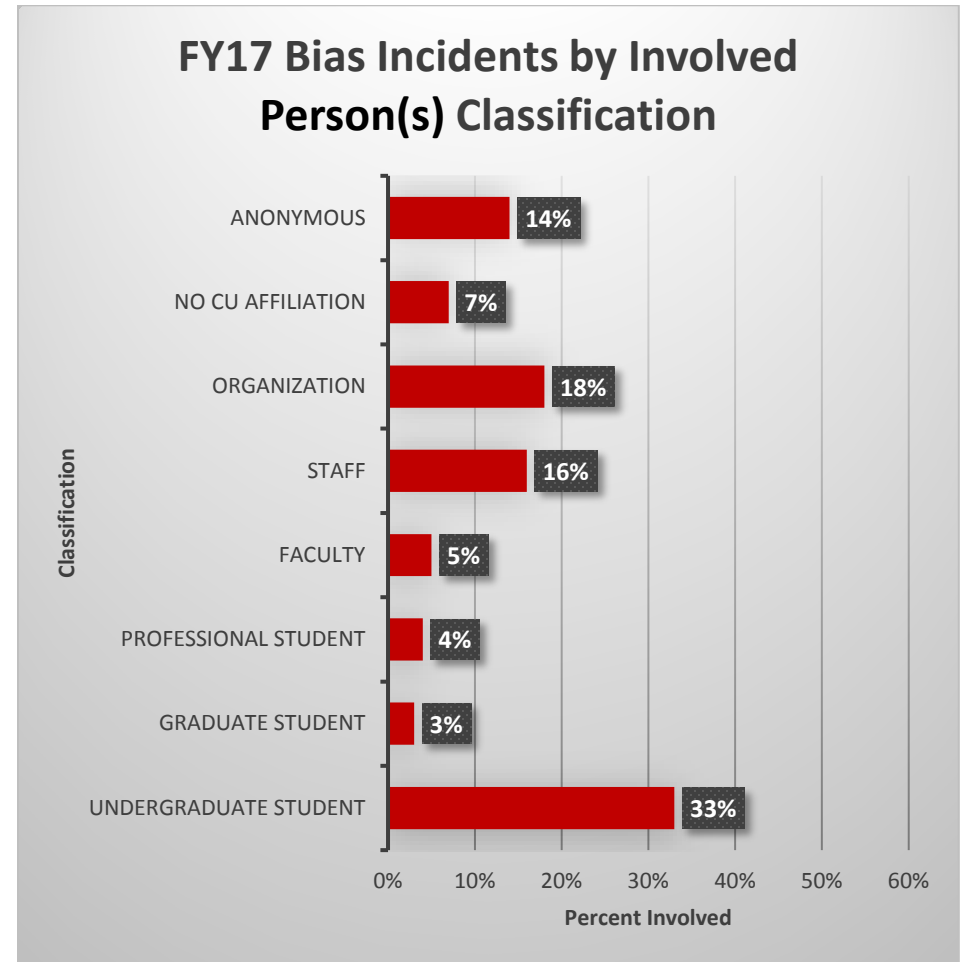
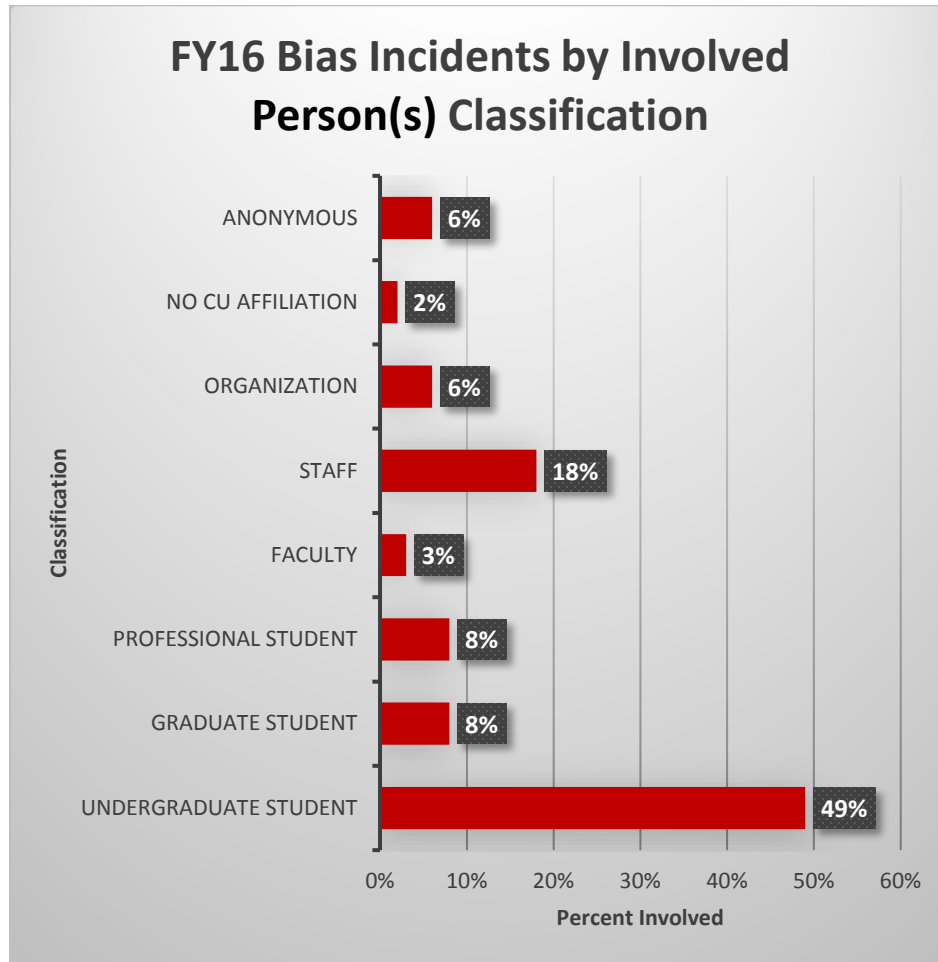
The data above represents the aggregate number of each factor selected during the reporting process or determined after the report was processed. The nature of concern is the protected status or other related factor on which a report is based. When filing an incident report, reporters are able to select more than one nature of concern, therefore the total number of reports by nature of concern may be greater than the total number of reports for each fiscal year. Each report is triaged by the Department of Inclusion and Workforce Diversity, and the most appropriate concern(s) is selected based on the information provided.

Bias: Where is It Happening?



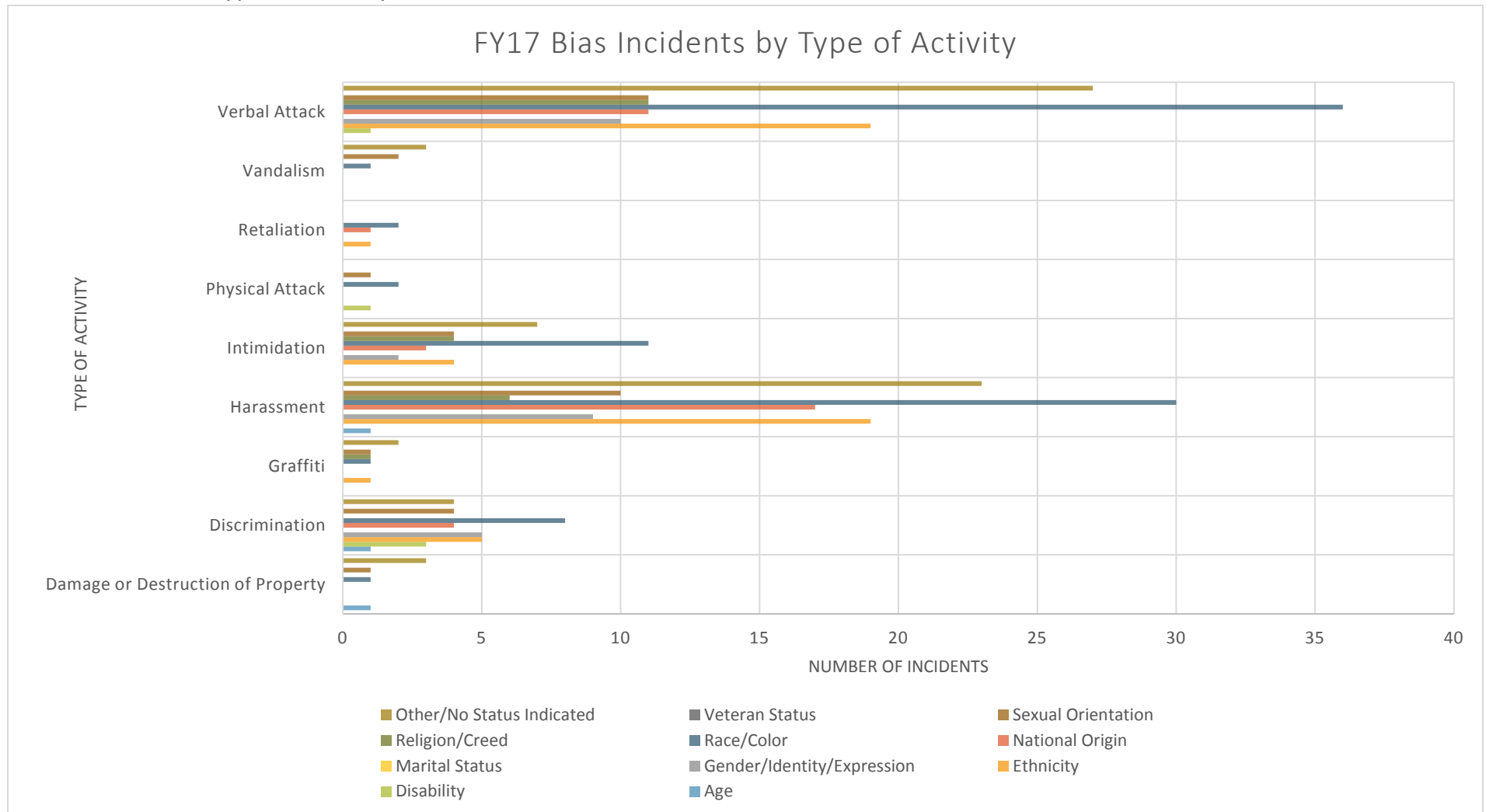
The data above represents the aggregate number of each location selected during the reporting process or determined after the report was processed. The location of incidents is key to identifying trends, making connections to other crimes, and determining whether an incident is reportable under the Clery Act. Similar to the nature of concern, one incident can be assigned multiple locations. For example, an incident that occurs on campus may also have occurred in a residence hall. The data shows that the vast majority of reported incidents in FY17 have occurred on campus and—increasingly—on social media.

Bias: Who is Involved?



The data above indicate the classification of the parties involved in reported incidents. These charts do not make any distinction between the reporter, the accused, or any bystanders and witnesses. While undergraduates maintain the highest proportion of involved persons, there have been notable increases in other populations, particularly organizations and non-Cornell entities or individuals. The reporting form also allows reporters to specify how they would like to be involved in the case post-reporting, and if they consent to being contacted for follow-up. While the number of individuals who reported as “Anonymous” increased, it should be noted that the majority of these reporters included contact information for follow-up from the appropriate entity.

Bias: What is the Type of Activity?



The data above shows the aggregate number of reports based on the type of activity and the nature of concern. Of note is the change from previous fiscal years to counting discrimination and harassment separately, instead of as “discrimination/harassment.” This allows for a more accurate count of reported incidents of both types. Verbal attacks remain the highest reported type of activity. This category also includes comments that are written on social media or distributed electronically.

Reporting Sexual and Related Misconduct

Cornell University strives to maintain an environment that is safe and free from sexual misconduct, including sexual violence. The university has adopted policies in support of this goal and complies with all applicable federal, state, and local laws. The university is committed to sharing information with the broader community regarding the incidence of sexual misconduct on campus.

What is Cornell Required to Report?

New York State Education Law Article 129-B (“*Enough is Enough*”) will, but does not currently, require institutions to annually report certain information regarding domestic violence, dating violence, stalking, and sexual assault to the NYS Education Department. It is anticipated the reporting requirement will go into effect in the fall of 2019.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Violence Against Women Act (VAWA) are federal laws that require colleges and universities to disclose information about crime on and around their campuses including, dating violence, domestic violence, stalking, rape, fondling, incest, and statutory rape. This information can be found in the Annual Security Report: cupolice.cornell.edu.

For the purposes of this report, sexual and related misconduct includes the following offenses:

- Dating Violence (Intimate Partner Violence)
- Domestic Violence
- Sexual Assault (public lewdness, rape, sexual battery, and sexual abuse)
- Sexual Harassment¹
- Stalking

For complete definitions of these offenses, please refer to University [Policy 6.4: Prohibited Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence](#).

Note that effective August 1, 2016, the University enacted new *Procedures for the Resolution of Reports Against Students Under Cornell University Policy 6.4 for the Following Acts of Prohibited Conduct: Dating Violence; Domestic Violence; Sexual Assault; Sexual Exploitation; Sexual and Gender-Based Harassment; Stalking; Aiding Prohibited Conduct; Attempting to Commit Prohibited Conduct; Retaliation; and Violating an Interim Measure*. Dating Violence, Domestic Violence, Sexual Assault, Sexual and Gender-Based Harassment, and Stalking, as well as other prohibited conduct, are set forth and defined in the *Procedures*.

¹ Includes both Title IX and Title VII offenses.

Reporting an Incident

Cornell strongly encourages individuals who have experienced, have knowledge of, or have witnessed sexual harassment, sexual assault, domestic and dating violence, stalking, sexual exploitation, or other forms of sexual misconduct committed by or against students, staff, or faculty to report the incident immediately to the University. Reporting can be done through one of the following options:

- **By submitting** an incident report online at biasconcerns.cornell.edu
- **By contacting** the University's Title IX Coordinator or any Deputy Title IX Coordinator by telephone, email, or in person during regular office hours (see list below)
- **By emailing:** nosexualmisconduct@cornell.edu
- **By contacting** the Cornell University Police Department (CUPD) at (607) 255-1111 or 911 for emergency assistance.

Title IX Coordinators:

- **University Title IX Coordinator**, Sarah Affel | sba49@cornell.edu
- **Deputy Title IX Coordinator for Students**, Michelle Horvath | mrh263@cornell.edu
- **Deputy Title IX Coordinator for Staff and Faculty**, Laurie Johnston | lmj6@cornell.edu
- **Deputy Title IX Coordinator for Athletics**, Anita Brenner | amb42@cornell.edu
- **Cornell Tech Title IX Coordinator for Students**, Christine Sneva | ces255@cornell.edu
- **Cornell Tech Title IX Coordinator for Staff and Faculty**, Julie Delay | jad13@cornell.edu
- **Weill Cornell Medicine Title IX Coordinator for Students**, Dr. JoAnn Difede | jdifede@med.cornell.edu
- **Weill Cornell Medicine Title IX Coordinator for Faculty**, Dr. Rache Simmons | rms2002@med.cornell.edu
- **Weill Cornell Medicine Title IX Coordinator for Employees**, Angela Charter Lent | anc2035@med.cornell.edu

For additional information and resources, including confidential resources and the New York State Student Bill of Rights, visit the Sexual Harassment & Assault Response and Education website: share.cornell.edu or titleix.cornell.edu.



Help is available.

You have the right to make a report to university police, local law/enforcement, and/or state police or choose not to report; to report the incident to Cornell; to be protected by Cornell from retaliation for reporting an incident; and to receive assistance and resources from Cornell.

More information . . .

Sexual Harassment and Assault—Response and Education
share.cornell.edu

Help is Available START ANYWHERE, ASK ANYTHING

Cornell University Police

607 255-1111 or 911
emergency response

Report Sexual Misconduct

nosexualmisconduct@cornell.edu

Report Bias

report_bias@cornell.edu

Faculty and Staff Assistance Program (FSAP)

607 255-2673
consultation and support around work/life issues

Gannett Health Services

607 255-5155
medical and mental health care

The Advocacy Center

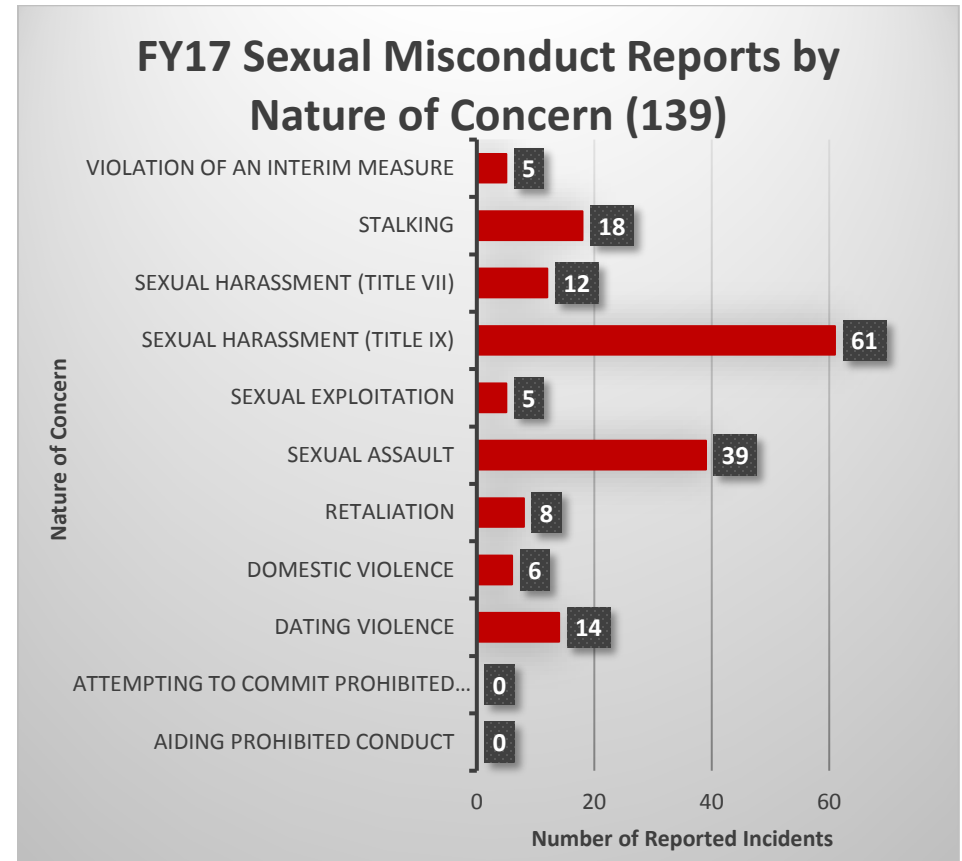
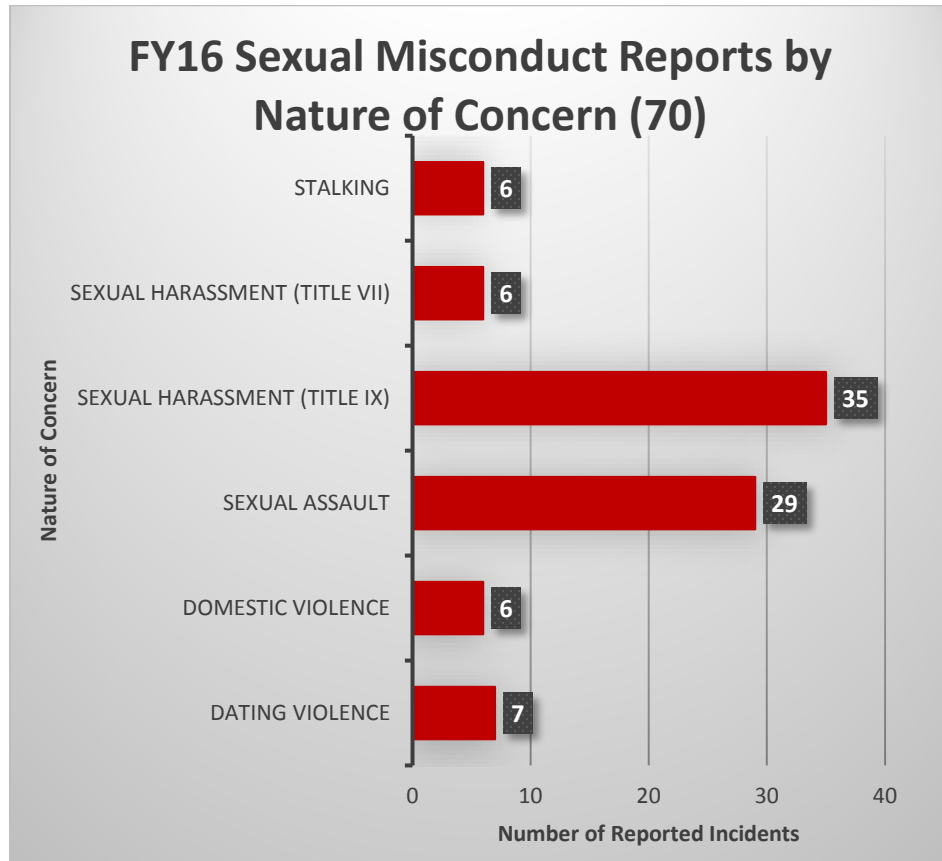
607 277-5000
Ithaca's sexual and relationship violence hotline

Crisisline

607 272-1616
Ithaca's suicide prevention services

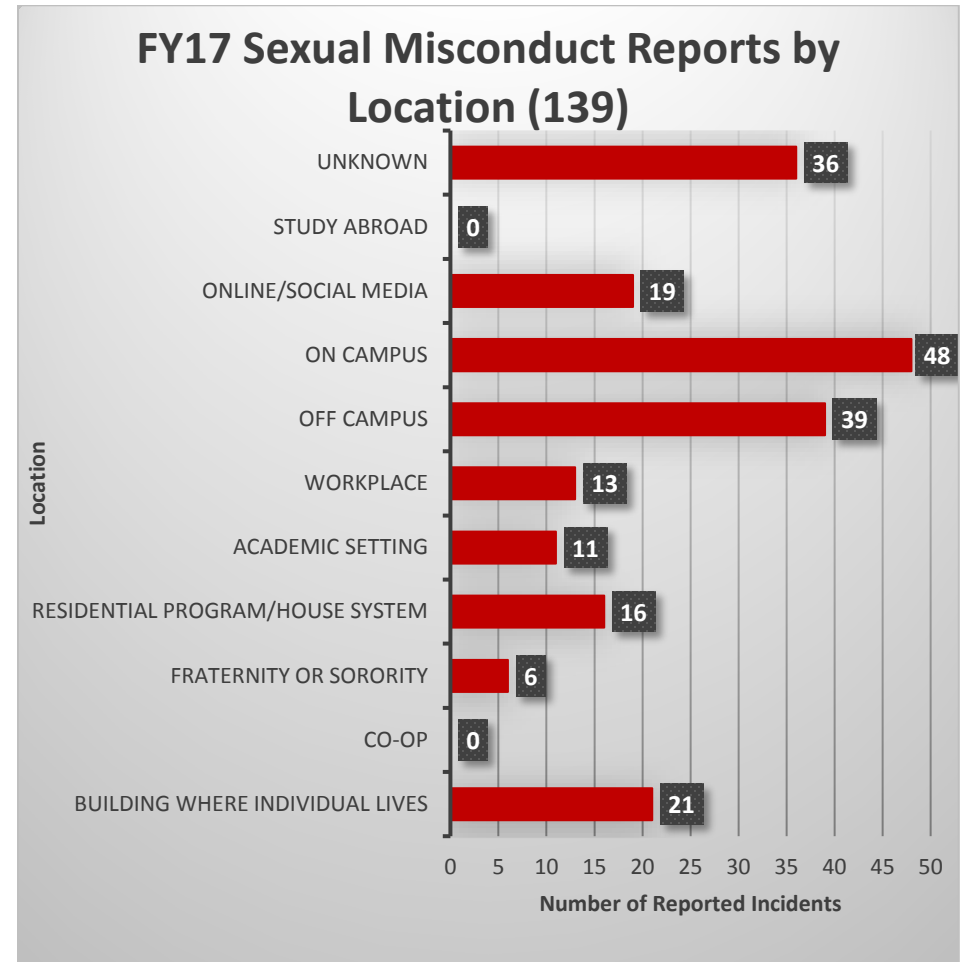
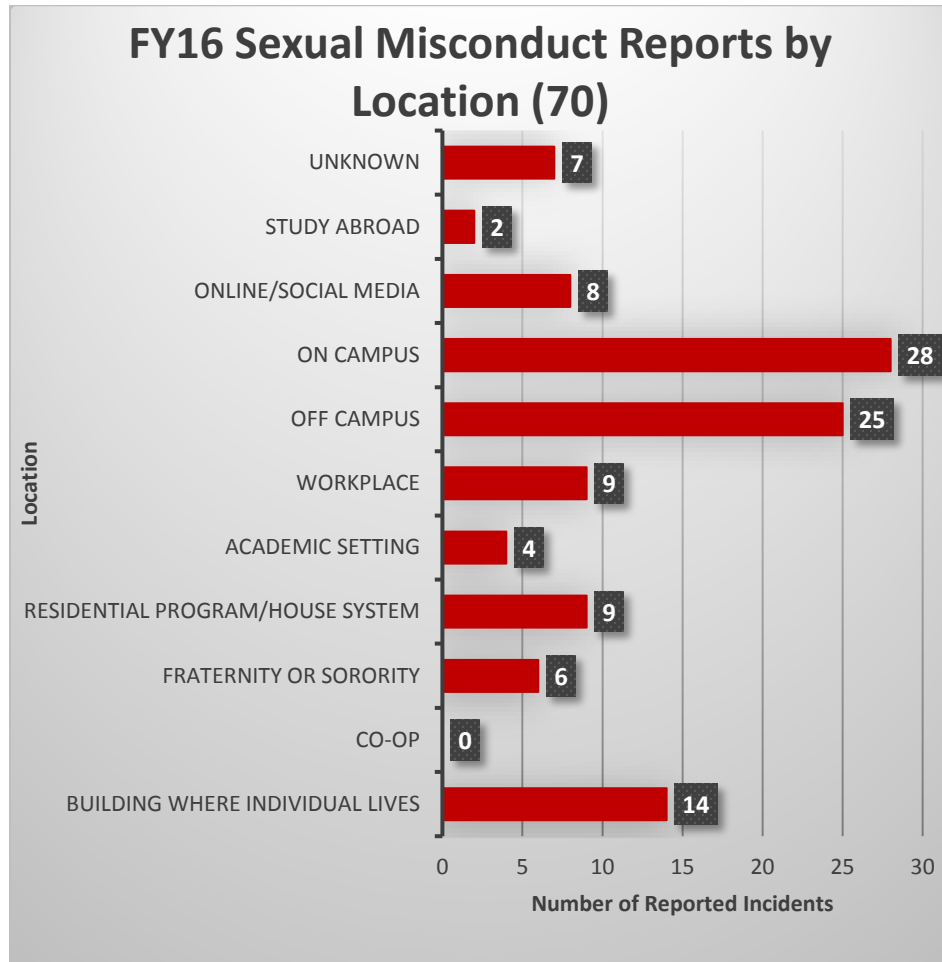


Sexual Misconduct Annual Snapshot of Activity



The data above shows the number of reports that have been made to the university in the period July 1, 2016 – December 31, 2016. A “report” is when a faculty or staff member who has a “duty to consult” pursuant to Policy 6.4 becomes aware of potential violations under Policy 6.4 and consults with the Title IX Coordinator, or a complainant or third party does the same. A report may be oral, written, formal, or informal. A report may include multiple offenses, so the total number of concerns may exceed the total number of reports. A report is not the same as a Formal Complaint under Policy 6.4 and does not necessarily result in a Formal Complaint. The data above does not specify how many reports have yielded Formal Complaints and/or resulted in a formal investigation under Policy 6.4 or the Campus Code of Conduct. This data excludes all matters reported directly to any of the designated confidential resources, who do not have a duty to consult with a university official. Of note is the addition of new charges to reflect changes in Policy 6.4 and associated procedures that went into effect on August 1, 2016.

Sexual Misconduct: Where is it Occurring?



The data above represents the aggregate number of each location that was selected during the reporting process or determined after the report was processed. There may be more than one location category per report so the total number of locations will exceed the total number of reports. It should be noted that these numbers may fluctuate significantly by the time of fiscal year-end reporting. This is because of new information that may become available during the course of an investigation or otherwise. For example, a number of incidents with unknown locations may become known and reclassified.

Sexual Misconduct: Who is Involved?

Complainants by Nature of Concern and Gender*

Nature of Concern	Male	Female	Intersex	Anonymous/ Unknown to the University
Aiding Prohibited Conduct	0	0	0	0
Attempting to Commit Prohibited Conduct	0	0	0	0
Dating Violence	3	11	0	0
Domestic Violence	2	4	0	0
Retaliation	3	4	0	0
Sexual Assault	5	32	0	2
Sexual Exploitation	2	2	0	1
Sexual Harassment (Title IX)	16	36	0	6
Sexual Harassment (Title VII)	1	10	0	0
Stalking	3	14	0	1
Violation of an Interim Measure	0	5	0	0
Total	35	113	0	10

Respondents by Nature of Concern and Gender*

Nature of Concern	Male	Female	Intersex	Anonymous/ Unknown to the University
Aiding Prohibited Conduct	0	0	0	0
Attempting to Commit Prohibited Conduct	0	0	0	0
Dating Violence	9	3	0	1
Domestic Violence	2	2	0	1
Retaliation	4	2	0	2
Sexual Assault	28	2	0	9
Sexual Exploitation	3	1	0	1
Sexual Harassment (Title IX)	47	3	0	9
Sexual Harassment (Title VII)	10	1	0	0
Stalking	14	2	0	1
Violation of an Interim Measure	5	0	0	0
Total	122	16	0	24

*This data reflects the initial reports to the University, not Formal Complaints.

A person who is the subject of a report or initiates a Formal Complaint of prohibited conduct is designated as the complainant. A person against whom such a report or Formal Complaint has been made is designated as the respondent.

Complainants by Nature of Concern and Classification*

	Undergraduate Student	Graduate/ Professional Student	Faculty	Staff	Third Party/ Unknown to the University
Aiding Prohibited Conduct	0	0	0	0	0
Attempting to Commit Prohibited Conduct	0	0	0	0	0
Dating Violence	11	2	0	0	1
Domestic Violence	3	2	0	1	0
Retaliation	4	1	0	1	1
Sexual Assault	24	2	0	0	13
Sexual Exploitation	1	2	0	0	2
Sexual Harassment (Title IX)	27	12	1	2	15
Sexual Harassment (Title VII)	0	0	0	11	0
Stalking	10	3	0	3	1
Violation of an Interim Measure	3	2	0	0	0
Total	83	26	1	18	33

Respondents by Nature of Concern and Classification*

	Undergraduate Student	Graduate/ Professional Student	Faculty	Staff	Third Party/ Unknown to the University
Aiding Prohibited Conduct	0	0	0	0	0
Attempting to Commit Prohibited Conduct	0	0	0	0	0
Dating Violence	8	0	0	0	6
Domestic Violence	3	0	0	0	3
Retaliation	4	0	0	1	3
Sexual Exploitation	0	2	0	0	3
Sexual Assault	14	1	0	0	24
Sexual Harassment (Title IX)	20	9	9	5	16
Sexual Harassment (Title VII)	0	0	1	8	2
Stalking	8	3	0	0	7
Violation of an Interim Measure	3	2	0	0	0
Total	60	17	10	14	64

Respondents in this data and the data on the previous page may have multiple allegations against them. The total number of respondents may exceed the number of total reported incidents.

*This data reflects the initial reports to the University, not Formal Complaints.

University Confidential Resources

The University offers a number of confidential resources for individuals who are unsure whether to report prohibited conduct and/or who seek counseling or other emotional support in addition to, or without, making a report to the University. For confidential support, seek assistance from:

- [Gannett Health Services](#) (medical and mental health providers, students only: 607-255-5155)
- The [Faculty and Staff Assistance Program \(FSAP\)](#) (FSAP) (mental health providers, faculty and staff only: 607-255-2673)
- [Cornell United Religious Work Chaplains \(CURW\)](#) (pastoral counseling: 607- 255-6002)
- The [Ithaca Advocacy Center's](#) 24/7 hotline (607-277-5000)
- The [Cornell Victim Advocate](#) (607-255-1212, victimadvocate@cornell.edu)
- The director of the [Women's Resource Center \(WRC\)](#) (607-255-0015, womensresctr-mailbox@cornell.edu)
- The director of the [LGBT Resource Center](#) (607-254-4987)
- [The University Ombudsman](#) (607-255-4321)

Conversations with the University's confidential resources are kept strictly confidential and, except in rare circumstances, will not be shared without explicit permission, as explained below:

Gannett, FSAP, and CURW will not share with the University's Title IX Coordinator or any other University officials any information disclosed to them in the course of providing medical and/or mental health services or pastoral counseling. Generally, these conversations are also legally privileged in the event of a court proceeding.

The Advocacy Center is independent of Cornell and has no duty to consult with the University.

The Victim Advocate, directors of the WRC and LGBT Resource Center, and the Ombudsman will not convey any personally identifiable information to the University Title IX Coordinator or any other University officials; however, they may share with the University's Title IX Coordinator de-identified statistical or other information regarding sexual assault, dating violence, domestic violence or stalking.

For questions or additional information, contact us:

Department of Inclusion & Workforce Diversity

150 Day Hall

(607) 255-3976

owdi@cornell.edu | diversity.cornell.edu

Title IX Office

150 Day Hall

(607) 255-2242

titleix.cornell.edu

Division of Human Resources

hr.cornell.edu

Sexual Harassment & Assault Resources and Education

share.cornell.edu

BIAS:

**Have you ...
Seen It, Heard It,
or Experienced It?**

Reporting Bias



For more information,
please contact the
Department of Inclusion
and Workforce Diversity:

Phone: (607) 255-1426

Email: Report_Bias@cornell.edu

Web: www.hr.cornell.edu/diversity/reporting

To Report: <http://biasconcerns.cornell.edu>



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