

# MEMORANDUM

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TO: University of Oklahoma Board of Regents

FROM: Office of Institutional Equity and Office of Legal Counsel

DATE: May 28, 2020

SUBJECT: Title IX Office and its Independence

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This Memorandum is intended to address issues raised in the letter dated May 16, 2019, from the University of Oklahoma's Provost's Advisory Committee for Women's Issues (PACWI) and the Faculty Senate Executive Committee (FSEC) for the Norman campus sent to the University of Oklahoma Board of Regents ("the Board"). The letter requests that the Board take proactive measures to ensure the University has an effective Title IX Office in compliance with the federal law and recommends investing resources in the Title IX Office and the Gender and Equality Center (GEC). It also cites concerns that interactions between the Office of Legal Counsel and Title IX may be perceived as a conflict of interest and may cause an outside observer to interpret this close relationship as an indication of non-compliance. The letter also raises concerns that OU's Title IX Office may not have resources available to develop the "strong and visible" role that the guidance from the Department of Education requires.

As the Board is aware, under Title VII and Title IX when an institution knows or reasonably should know of possible sex-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that the harassment created a hostile environment, the institution must take prompt and effective steps to end the harassment, eliminate the hostile environment, prevent its recurrence, and as appropriate, remedy its effects. To fulfill its legal duty, the University has developed a process and an office to investigate these claims known as the Office of Institutional Equity and/or Title IX (hereinafter referred to collectively as "OIE").

The OIE is an independent office which reports directly to the Board of Regents. Further, OIE has developed multiple policies and has an investigative policy manual that it follows to carry out its work. OIE also has direct access to ATIXA, which is a venue for receiving independent advice,

both legal and procedural, between coordinators and other administrators for best practice of institutional Title IX compliance.

Below are data points that explain the development of the OIE, a summary of prevention and awareness initiatives conducted by the OIE, GEC, and University Community in 2018, and

[REDACTED] and an increase in volume of such claims:

**I. Brief History**

- In 2011, in response to the Dear Colleague letter issued by the Department of Education, the University created the Title IX Officer role. This role was given Executive Officer status and was given a dual reporting role to the President and the Board of Regents. This dual reporting role was to create as much independence as possible for the Title IX Officer at the University of Oklahoma.
- The OIE was created in 2012 in response to ever-increasing state and federal regulation governing equity issues. Since 2012 these regulations and requirements have continued to increase to include: Non-Discrimination in Healthcare Requirements as required by the Health and Human Services, Affordable Care Act, National Sciences Foundation, and National Institute of Health reporting requirements, and mandatory NCAA Sexual Violence Prevention training for all Athletics Department employees, coaches, and student athletes. The OIE on September 9, 2016 assumed the responsibility for receiving and responding to all reports of bias or prejudice behavior, physical or mental harassment, or unwelcome verbal or physical conduct, reported to the 24-Hour Reporting Hotline.
- The case load for OIE increases every year with OIE receiving over 300 reports in the last twelve months.
- The staff size for OIE is currently nine employees. While numerous schools are under investigation by the DOE for Title IX failures, the [REDACTED]

**II. Prevention and Awareness Initiatives:**

The following is a summary of prevention and awareness initiatives conducted by the OIE, GEC, and University Community in 2018 and are ongoing annually.

## 1. Title IX/Sexual Misconduct Office (TIX)

- Discrimination and Harassment Awareness
  - Attendance: **4,699** Faculty, Staff and Students across all campuses.
  - Number of Sessions: 134
- Our Voice Active Bystander Employee Training
  - Attendance: **197** Employees across all campuses.
  - Number of Sessions: 15
- NCAA On Campus Violence Prevention
  - All Student Athletes and Athletics Employees Trained

## 2. Gender + Equality Center (GEC)

- **Step In, Speak Out**
  - Attendance: **4,232** Students
  - Number of Sessions: 178
  - Presidentially mandated for all first-year students
- **Greek Step In, Speak Out**
  - Attendance: **1,749** Students
  - Number of Sessions: 31
  - Mandatory for all Fraternity and Sorority new members
- **Step Up**
  - Attendance: **570** Students
  - Number of Sessions: 13
  - Mandatory for all Interfraternity Council (IFC) men living in a fraternity house
  - 3-part training initiative conducted by each fraternity's president, Gender and Equality Center and the Title IX/Sexual Misconduct Office.
- **Our Voice Active Bystander Student Training**
  - Attendance: **676** Students
  - Number of Sessions: 19
  - Mandatory for various student leadership positions on campus
- **Our Voice Refresher**
  - Attendance: **155** Students
  - Number of Sessions: 5

- Mandatory for all 2<sup>nd</sup> and 3<sup>rd</sup> year Camp Crimson Small Group Leaders
- **Our Voice Social Norming Campaigns**
  - 5 campaigns covering topics such as stalking awareness, consent and sexual violence prevention.
- **# RelationshipGoals: Healthy Relationships Workshop**
  - Attendance: **493** Students
  - Number of Sessions: 28
- **Outreach and Events**
  - 10 events throughout Spring and Fall including Stalking Awareness Month, Violence Against Women Panel, Red Flag Campaign, Safebreak, #MeToo Panel, Let's Talk About Sex Event, White Ribbon Campaign, Rape Awareness Activity Night, "What Were You Wearing?" Survivor Art Installation, and Take Back the Night

### 3. Office of University Community (OUC)

- **Diversity Training**
  - Attendance: **3,461** Faculty, Staff and Students
  - Number of Sessions: 37
- **Community Outreach/Recruitment**
  - Attendance: **667** Prospective Students
  - Number of Sessions: 11
- **Tribal Liaison Outreach**
  - 24 Tribal community meetings to outline ways for OU to partner with tribes
  - 6 Recruitment, fair, and conference events
- **Teacher Summer Externship**
  - Attendance: **10**
- **Film Series for OU Community**
  - Attendance: **63**
  - Number of Sessions: 3
- **Conferences, Tutoring, and Receptions**

- Attendance: **363**
  - Number of Sessions: 4
- **Upcoming Diversity Training Series**
    - Session topics to include: Unlearning Sexism, Unlearning Racism, Unlearning Classism, Unlearning Ableism
    - Currently enrolled or waitlisted: **448**

**Total In-Person Training by TIX, GEC, and OUC (All Campuses)**

- Attendance: **17,335**
- Number of Sessions: **479**

**Total Online Title IX/Sexual Misconduct Awareness Training (All Campuses)**

- Employees: **16,627**
- Students: **11,297**

**III. Requested New Initiatives**

1. Provide more training and awareness of the OIE. Since 2012 the OIE has provided online Title IX/Sexual Misconduct Awareness training for all students and employees. [REDACTED]

[REDACTED] Many institutions utilize 3<sup>rd</sup> party vendors to provide comprehensive employee based training that include EO, Title IX, and other employee and student training topics. OIE has proposed that the HR Department conduct a review of available vendors and move toward a comprehensive online training program that standardizes training across all OU campuses. [REDACTED]

[REDACTED] The Institutional Equity Officer proposes working with our VP for Marketing and Communications to develop an informational campaign to launch annually in conjunction with the beginning of the fall semester.

2. Create and fund a SMO/Title IX Office Intake/Interim Measures Coordinator position with annual salary of \$65,000. This position will serve as the initial contact for all EO/Title IX cases. With the proposed new DOE-OCR: Title IX guidelines<sup>1</sup>, we expect to see a significant

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<sup>1</sup> On November 16, 2018, the U.S. Department of Education’s Office of Civil Rights published proposed rules, which clarify and modify Title IX regulatory requirements for colleges and universities that receive federal funding. Among many changes, the proposed rules address the ways in which institutions address and respond to allegations of sexual harassment including sexual assault, remedies for violations, and the adoption of grievance procedures.

increase in requests for interim measures for both the Reporting Party and Respondent in cases of Sexual Misconduct. [REDACTED]

[REDACTED] Success in the intake process is critical to gaining the trust of the reporting party and is vital to overall Title IX compliance.

3. Create and fund an additional OIE Investigator (Norman Campus), with an annual salary of \$60,000<sup>2</sup>. Since the current structure of the OIE was developed the case load has increased significantly averaging approximately 165 cases in our SMO and 70 in our EOO. Additionally, we consistently have 6-10 external cases pending with the EEOC/DOE-OCR or OCRE.
4. Create and Fund an OIE Investigator (HSC Campus) with an annual salary of \$60,000 on the HSC Campus. The case load on the HSC Campus has gone from 8 cases in 2012 to 50 in 2018. The HSC EO/TIX Office has only one full time employee.
5. Create and fund an OIE Office Manager position with an annual salary of \$50,000. This position is necessary to replace the administrative and budget support service provided by the two affirmative action positions that are transitioning to HR.
6. Increase financial resources. The current operating budget for the OIE covers the salaries for current personnel and basic daily operating cost. As result it has experienced consistent turnover of experienced staff due to higher salaries being offered by other employers. In order to retain the current investigative staff, a proposed at 10% increase (\$5,900) for the current lead EO and Title IX investigators and a \$20,000 increase in operating funds to provide ongoing prevention and awareness campaign and to provide professional EO/Title IX education for staff.