



DAY 2: TITLE IX COORDINATOR BOOTCAMP

A Practical Approach to
Navigating Beyond Compliance

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BUILDING A FOUNDATION FOR SUCCESS

01

FINAL RULE, SECTION 106.8

Designation of Coordinator,
Dissemination of Policy, and
Adoption of Grievance Procedures

“Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the Title IX Coordinator.”

Additionally:

- The recipient must notify [everyone] of the name or title, office address, email address, and telephone number of the coordinator(s).
- Any person may report in person, by mail/email, telephone using the contact information.
- Reports can be made at anytime.



FINAL RULE, SECTION 106.8 (a)

The institution must notify applicants and all members of the community of the Title IX Coordinator's:

1. **Name or Title**
2. **Office address**
3. **Email address**
4. **Phone number**

Any person may report , at any time, sex discrimination, including sexual harassment in person, by mail, by telephone, by email, or any other means using the contact information listed



RESPONSIBILITIES REQUIRED UNDER TITLE IX AND THE REGULATIONS

- Serve as the primary pathway for receipt of reports of sex discrimination and sexual harassment
- Upon receipt of a report, promptly contact the complainant to discuss the availability of supportive measures and to explain the process of filing a formal complaint
- Coordinate the effective implementation of supportive measures
- Where a report is made, but a formal complaint is not filed by the complainant, determine whether a formal complaint should be filed and sign that formal complaint
- Effective implementation of any remedies imposed by a decision maker at the conclusion of a grievance process

RESPONSIBILITIES OFTEN DELEGATED TO THE TITLE IX COORDINATOR

- Ensuring that the institutional policies and procedures are compliant with Title IX
- Ensuring dissemination of the policy
- Overseeing the grievance process to ensure it is compliant
- Coordinating a compliant grievance process
- Staffing various roles
- Ensuring training requirements are met
- Record keeping
- Compliance with intersecting federal and state laws
- Education and prevention efforts

TITLE IX COORDINATOR'S ROLE

In the Investigation

- Title IX Coordinator is permitted to conduct the investigation, though this is not favored
- If conducting the investigation, do so in accordance with the applicable institutional policy
- If not conducting the investigation, may serve as a support to the investigators
- May serve as a resource to the parties



TITLE IX COORDINATOR'S ROLE

In the Adjudication

- Title IX Coordinator may not serve as the decision maker
- May serve to support the decision maker(s)
- May participate in the hearing to provide logistical support to decision makers
- Responsible for effective implementation of remedies imposed

TITLE IX COORDINATOR'S ROLE

In the Appeal



- Title IX Coordinator may not serve as an appellate reviewer
- May serve to support the appellate reviewer/panel
- May provide logistical support
- May coordinate implementation of appellate findings, where appropriate.
- Responsible for effective implementation of remedies imposed

THE THREE ESSENTIAL FUNCTIONS OF TITLE IX COMPLIANCE

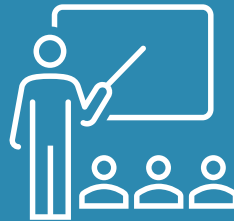
01

Response



02

Education &
Prevention



03

Compliance



**ANOTHER
MOMENT, PLEASE...**



A SUCCESSFUL TITLE IX COORDINATOR...

C

Consistent

A

Adheres to policies and procedures

R

Records or documents everything

E

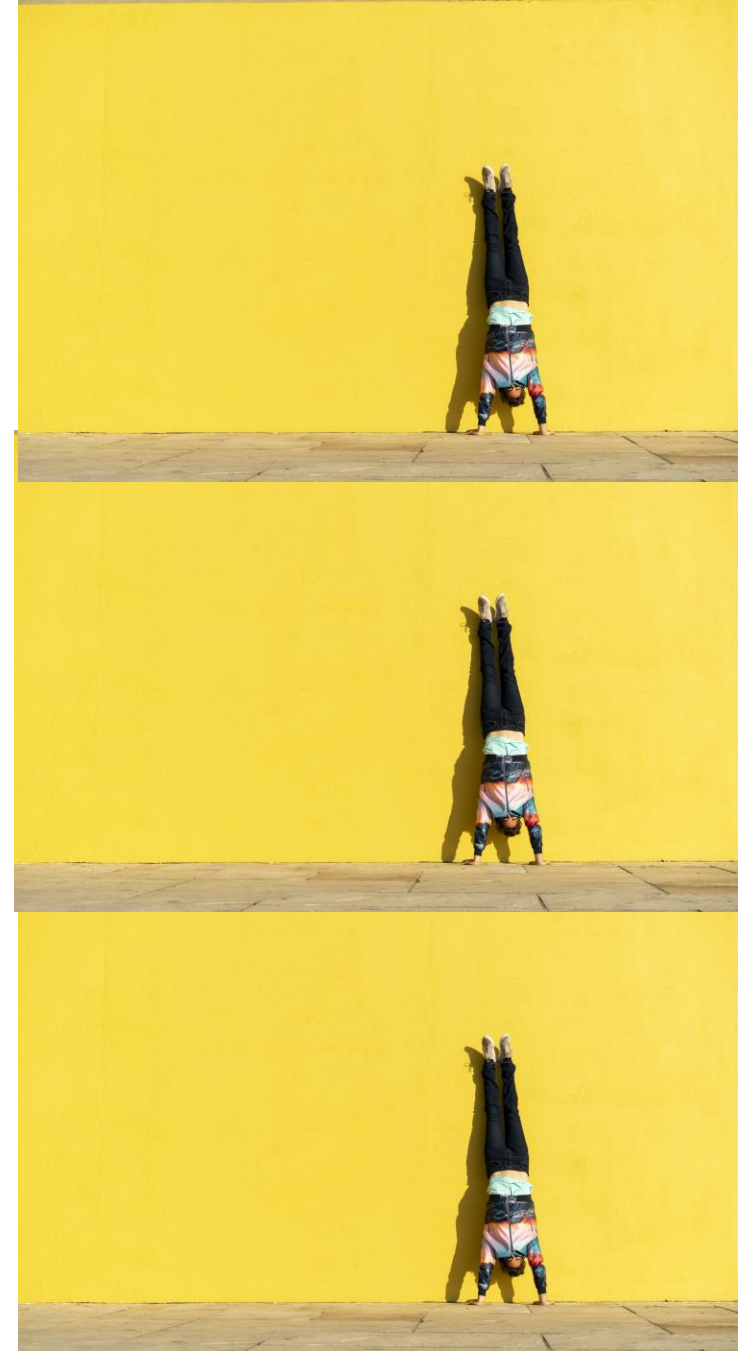
Engages meaningfully with the community

S

Strategizes for success

CONSISTENCY

- Creation of Forms and Templates
- Development of Annual Plans for Training
- Development of Annual Plans for Compliance
- Comprehensive Policies & Procedures



ADHERENCE

- Adhere to policies and procedures
- Implement training plans
- Stick to compliance plans
- Use the forms that are developed



RECORD KEEPING

Document, Document, Document!

1. Compliance

1. Maintain old policies
2. Keep records of all responses to reporting requirement

2. Training

1. Dates, times, locations
2. Attendees
3. Training materials
4. Reason for the training

3. Response

1. EVERYTHING



ENGAGEMENT

- Understand the needs of the community you serve
- Build awareness
- Build trust
- When you engage, others engage
- Can assist with workload



STRATEGY

- Conduct your own review: Evaluate the institution's state of compliance, strengths, and opportunities in all areas
- Develop plans for success in every area
- Prioritize the implementation and execution of those plans



SUCCESSFUL COORDINATORS APPROACH ALL ASPECTS OF THE WORK...

Impartially



**Utilizing
Best
Practices**



**With
Empathy**



IMPARTIALITY

Avoiding Prejudgment and Bias

“The Department’s interest in ensuring impartial Title IX proceedings that avoid prejudgment of the facts at issue necessitates a broad prohibition on sex stereotypes so that decisions are made on the basis of individualized facts and not on stereotypical notions of what “men” or “women” do or do not do.” 85 Fed. Reg. 30254 (May 19, 2020).



IMPARTIALITY: AVOIDING PREJUDGMENT AND BIAS

Do not rely on cultural
“rape myths”

Do not rely on cultural
stereotypes about how
men or women
purportedly behave

Do not rely on gender-
specific research data or
theories to decide or make
inferences of relevance or
credibility in particular
cases

Recognize that anyone,
regardless of sex, gender,
gender identity or sexual
orientation, can be a victim
or perpetrator of sexual
assault or other violence

Avoid any perception of
bias in favor of or against
complainants or
respondents generally

Employ interview and
intake approaches that
demonstrate a
commitment to
impartiality

IMPARTIALITY

Avoiding Bias

- “Department encourages [schools] to apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased” WHILE
- “exercising caution not to apply generalizations that might unreasonably conclude that bias exists (for example, assuming that all self-professed feminists, or self-described survivors, are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against complainants or respondents”

IMPARTIALITY

Avoiding Conflicts of Interest

- Simply having an affiliation with an institution in itself is NOT a conflict of interest:
 - "Department's authority is over schools, not individual investigators and other personnel, so Department will focus on holding school's responsible for impartial end result of process, without labeling certain administrative relationships as per se involving conflicts of interest."

IMPARTIALITY

Avoiding Prejudgment, Bias, and Conflicts of Interest

Bottom Line

- Follow facts of every individual case
- Investigate in manner that will not allow even a perception of prejudgment or bias for or against any party



COMPLIANCE

02

SOURCES OF COMPLIANCE OBLIGATION

Title IX Final Regulations

Violence Against
Women Act

Other, Intersecting
Federal Laws

State Law

Institutional Policies

Resolution Agreements

TITLE IX COMPLIANCE OBLIGATIONS

- Designate a Title IX Coordinator
- Disseminate Policy
Notification, Publication
- Promptly respond to instances of sexual harassment occurring within the educational program or activity of which the institution has actual knowledge in a manner that is not deliberately indifferent;
- Provide supportive measures in accordance with the requirements of section 160.30
- For reports of sexual harassment utilize grievance procedures that comply with section 160.45
- Require that individuals participating in the grievance process do so impartially and that they are trained in accordance with the 160.45(b)(1)(iii).
- Maintain records response to sexual harassment in accordance with 160.45 (10)
- Comply with 160.71 prohibition against retaliation

DEVELOPING A STRATEGY FOR COMPLIANCE

1

Identify Compliance Obligations

2

How you will prove that you are compliant

3

Record Keeping

IMPLEMENTING THE STRATEGY FOR COMPLIANCE

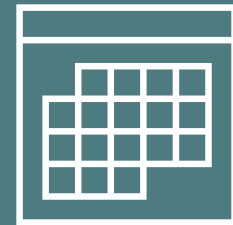
Partnerships



**Record
Keeping
Databases**



Calendar



TRAINING & EDUCATION

Educating ourselves and our communities

03

SOURCES OF TRAINING REQUIREMENTS



Title IX Final Regulations



Violence Against Women Act



State Law



Resolution Agreements

TRAINING AND EDUCATION: TWO AREAS OF FOCUS

01



Institutional Response to Sex Discrimination

02



Prevention Education

INSTITUTIONAL RESPONSE TRAINING

1. Institutional Policies and Procedures
2. Prohibited Conduct
3. Options for Confidential Support
4. The Identify, Role, and Requirements of the Responsible Employee
5. Options and methods for Reporting
6. The Grievance Process
7. The Role of the Title IX Coordinator



A REALLY IMPORTANT MOMENT. LISTEN UP. IT'S OKAY...



To not know the answer to every question thrown your way



To say, "I don't know," "I'd like to think about that," "I'll get back to you," "Thank you for sharing your perspective."



To decline to answer a question



To recognize and assert your expertise

WHO MUST RECEIVE TRAINING?

Title IX Staff*

- Coordinators
- Investigators
- Decision Makers (hearings and appeals)
- Facilitators of Informal Resolution

Faculty

- New faculty
- Existing faculty
- Adjunct Faculty
- Supervising faculty

Students

- New Students
- Existing Students
- Specialized populations
- Student staff

Staff

- New/existing staff
- Senior leadership
- Public Safety/campus law enforcement
- Health care workers

*“Those who are charged with ensuring a prompt, fair, and impartial investigation and result.” (VAWA)

COMMUNITY PARTNERS?

Boards of Trustees

Law Enforcement

Advocacy Groups

Health Care Providers

Attorneys

Media

TRAINING FOR TITLE IX STAFF



The scope of the institution's education program or activity (i.e., its Title IX "jurisdiction")

How to conduct the grievance process

How to serve impartially

The technology to be used at a live hearing *

Issues of relevance of questions and evidence *

Rape shield protections; and, *

Issues of relevance in creating an investigation report. *

SPECIAL CONSIDERATIONS FOR TRAINING & EDUCATION

Explaining the
narrowed scope of
Title IX

Explaining the
institutional decision
for two
processes/procedures

Responsible Employee
challenges

Burden of proof
challenges

Length of Training

Time for
questions/community
processing

PREVENTION EDUCATION: TITLE IX REGULATIONS



"And while the Department does not mandate educational curricula, nothing in the final regulations impedes recipients' discretion to provide students (or employees) with educational information."

85 Fed. Reg. 30063 (May 19, 2020).

PREVENTION EDUCATION: VIOLENCE AGAINST WOMEN ACT (VAWA)

A primary prevention and awareness program [which includes bystander intervention] aims to prevent dating violence, domestic violence, sexual assault, and stalking.

Ongoing prevention and awareness campaigns.



ELEMENTS OF ANNUAL TRAINING STRATEGY

- Identify population to be trained
- Determine topic
- Schedule the training
- How will you deliver the training
- Partnerships
- Communications
- Community input/feedback
- Engagement as passive education



A photograph of three women in an office environment. The woman in the foreground has red hair and is wearing a blue and white striped shirt, smiling broadly at the camera while working on a laptop. Behind her, two other women are also smiling and looking towards the camera. The woman in the middle has dark hair and is wearing a green top, pointing at the laptop screen. The woman in the background has dark hair and is wearing a black top. They are all sitting at a dark wooden table with laptops, papers, and a glass of water. A large blue rectangle is overlaid on the right side of the image, containing the title text.

EMPLOYEE REPORTING OBLIGATIONS

THE TITLE IX OFFICE RECEIVES THE FOLLOWING EMAIL FROM A RESPONSIBLE EMPLOYEE:

“My name is Professor Jones. One of my students shared that they were raped last weekend at a party by another student. They don’t want the school starting an investigation, and so I am not going to share their name or the details with you. They are thinking about talking to the police but are not sure who to contact. Can you please provide me with information that I can share with the student?”

PREGNANCY OR RELATED CONDITIONS

04

TITLE IX



Title IX prohibits discrimination on the basis of sex, which includes pregnancy and parental status – in educational programs and activities.

TITLE IX & PREGNANCY



Cannot exclude or treat students (or employees or applicants) differently based on pregnancy or related conditions.

"Related conditions" include "childbirth, false pregnancy, termination of pregnancy, or recovery therefrom"

TITLE IX OBLIGATIONS

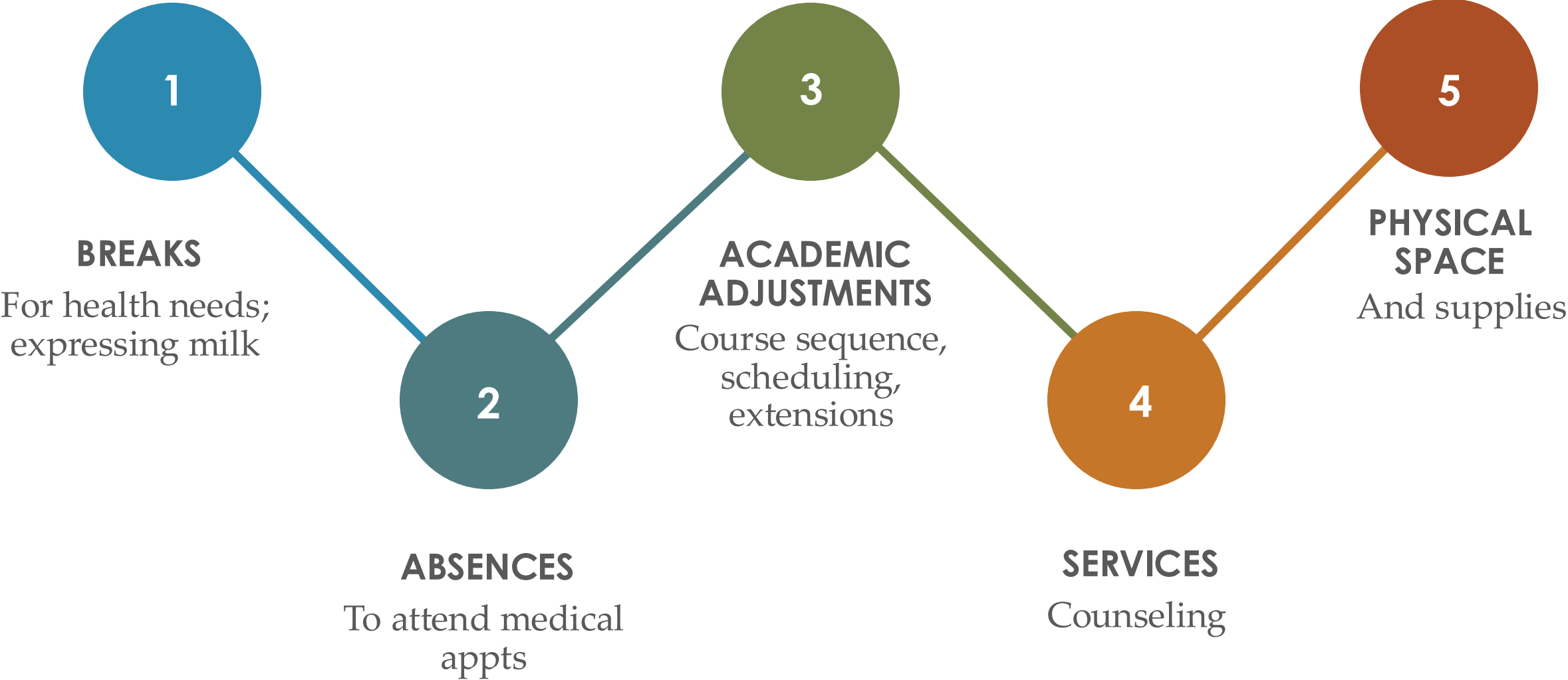
Summary of the obligations relating to pregnant students

- Allow them to make up any missed work without penalty
- Treat them similarly to students with a temporary disability.
- They must be allowed to return to the same academic and extracurricular status as before their medical leave began.
- Must provide reasonable adjustments, like a larger desk, elevator access, or allowing frequent trips to the restroom



ALLOW MODIFICATIONS

Non-Exhaustive



NOW WHAT?

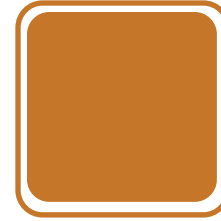
- A student in a science program asks a faculty member if they can be excluded from a series of lab sessions involving in chemicals that may be harmful for pregnant people. The instructor is insistent that they must complete these labs in order to not fail the class:
 - As Title IX Coordinator, what are your next steps?
 - Who else are you bringing into the conversation?
 - How can we be creative to ensure equal access for this student?



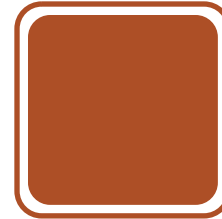
THE IMPORTANCE OF UNDERSTANDING THE POTENTIAL IMPACT OF TRAUMA

05

TRAUMA-INFORMED
PRACTICES
PROVIDE TOOLS &
TECHNIQUES FOR
INTERVIEWING AND
ENGAGING WITH
THE COMPLAINANT,
RESPONDENT, AND
WITNESSES.



Format/Structure of the
Interview



Format of Questions



Approach to Clarification

TRAUMA-INFORMED PRACTICES ARE DESIGNED TO:

Encourage thorough
and complete
investigations

Assist with
recollection

Assist with
recounting

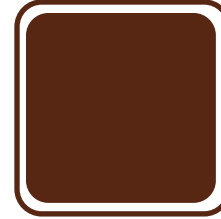
Reduce potential for
false information

Minimize unnecessary
re-traumatization

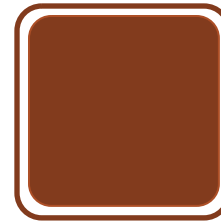
Reduce bias

MISAPPLICATION OF TRAUMA-INFORMED PRACTICES

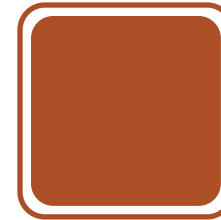
It is a misapplication of trauma-informed principles to allow potential evidence of trauma to:



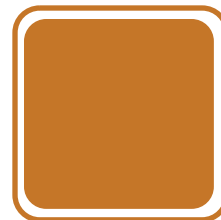
1. Influence the interpretation of a specific item of evidence



2. Substitute for missing evidence



3. To serve as a justification for not doing a full and thorough investigation



4. Cause a biased belief in the veracity of one or more party

What is trauma?



TRAUMA

An event that is experienced as terrifying, horrifying, or life-threatening and that is coupled with an actual or perceived lack of control.

What is an example of an event that might cause a traumatic response?



EXAMPLES OF EVENTS THAT MIGHT TRIGGER A TRAUMATIC RESPONSE

Sexual assault

Physical assault by a stranger

Physical assault by an intimate partner

A car accident

Accident that causes serious injury or death

Robbery

Significant medical event

COGNITIVE IMPACT

When trauma occurs, there are very real changes in brain functioning that may impact a person's ability to form memories and to recount their experience.

COMMON CHARACTERISTICS OF DISCLOSURES FROM A TRAUMA-IMPACTED BRAIN

Inconsistent

Non-linear

Fragmented

Lacking in detail


New information
added

Affect is
unexpected

TRAUMA AFFECT=LACK OF CREDIBILITY?

Historically, the seemingly inconsistent behaviors that frequently accompany disclosures of sexual assault and interpersonal violence resulted in the belief that the victim was being dishonest.

Inconsistencies
Lack of Detail
Non-Linear
Fragmented
New Information



Viewed as
Not Credible;
Case Closed

**WHEN
PRACTITIONERS DEVELOP
“TRAUMA-INFORMED”
SYSTEMS, THEY ARE LESS
LIKELY TO:**



Make incorrect assumptions about credibility



Ask questions or make decisions founded in bias for either party or witnesses



Cause additional harm



Jeopardize future reporting

ASKING THE RIGHT QUESTION

Trauma-informed systems ask the question
“What has happened to you?” rather than
“What is wrong with you?”

(ACHA, 2020)

GUIDING PRINCIPLES OF TRAUMA-INFORMED SUPPORT

- Safety
- Choice
- Collaboration
- Trustworthiness
- Empowerment



Adapted from The Institute on Trauma and Trauma-Informed Care (2015)

IMPACT OF TRAUMA EXPOSURE FOR TITLE IX COORDINATORS

- Trauma exposure also impacts each of us in our work as Title IX Coordinators
- Exposure to trauma may have both a negative and positive impact on each of us, including:
 - Negative - Secondary traumatic stress, burnout, and vicarious traumatization
 - Positive - Compassion satisfaction, resilience, and engagement
- Protective factors to prevent experiencing a negative impact may include:
 - Having a strong support system
 - Setting clear boundaries in your work
 - Developing a peer network to share about your experiences

TRAUMA-INFORMED TAKEAWAYS

01

Trauma-informed systems are accessible for all parties

02

The impact of trauma exposure can negatively impact Title IX Coordinators

03

Burnout and trauma exposure can be related; it is important to develop protective factors

NAVIGATING SENSITIVE CONVERSATIONS

6

You are meeting with a Complainant, Jessica, who is very quiet, reserved, and tearful. She is very reluctant to speak with you.

You discover later in the conversation that she has been sexually assaulted by another student. When she disclosed this to her family, they immediately told her she was at fault because, "premarital sex is against our religion." Jessica said this conversation happened over a year ago and she hasn't spoken about it since.

Jessica is requesting academic support because she has been struggling focusing and attending classes. She is adamant that she does not want counseling because she doesn't want her parents to find out she is receiving support.

HOW DO YOU RESPOND?

- What are ways we can encourage conversation?
- What are some elements to be mindful of?
- How can we maintain a balance of wanting to shift the blame Jessica feels while not infringing on her religious beliefs?

MANAGING EXPECTATIONS

Angry parties

7a

**YOU RECEIVE THE FOLLOWING MESSAGE FROM
YOUR INSTITUTION'S ONLINE REPORTING FORM:**

- What are your next steps?
- What are some specific conversation points you will want to share with Complainant?
- Drawing from your own experiences, what are some concerns to be mindful of?

“Good morning. My name is Sammy. I was raped last night in Grand River Hall by Taylor who is on the basketball team here. Taylor gave me a bunch of white claws at a party and then attacked me in their residence hall room.

I want them expelled immediately. This is supposed to be a safe campus. Please text me once Taylor has been expelled so I know my friends and I can be safe again.”

You conduct outreach to Complainant and they are Unresponsive, stating they won't meet with you until you've expelled Taylor.

PUSHBACK FROM FACULTY

Complainant and Respondent –
Mutual Class

7b

SCENARIO: PROFESSOR SMITH



Professor Smith has both Complainant Alex and Respondent Stevie in their Psychology class.

Professor Smith leaves a voicemail for the Title IX Coordinator wanting to know updates about a Title IX investigation. Professor Smith also mentions that they removed Stevie from their Psychology class.

YOU RECEIVE THE FOLLOWING VOICEMAIL



Good morning. This is Doctor Smith from the Psychology department. I am calling because I have not yet received any updates on the investigation you are doing with students Alex and Stevie. I know it's been over a week since Alex met with your office. Since I have both of them in my class, I'm outraged that I have not received more updates about the progress of the investigation. I deserve to know because this impacts my ability to teach these students. Since I haven't heard back, I told Stevie they are not permitted to attend my class. I won't have dangerous students in my class endangering others. Please call me back immediately.

- What can you share/not share in your conversation with Professor Smith?
- What are you documenting?
- Who else are you working with to address these concerns?

PUSHBACK FROM FACULTY- CONTINUED

Supportive Measures – Academics

4b



You receive the following email from a faculty member who does not want to offer academic support.

SCENARIO: SUPPORTIVE MEASURES

Dear Title IX Coordinator,

Thank you for your email. My apologies for the delayed response, but as you know, faculty members are extremely busy and overburdened here on this campus.

I must say, the email you titled, "Academic Supportive Measures" was not only completely absurd, but borderline offensive. While I am sorry to hear that student Ash has been struggling to manage her emotions due to recent experiences, I'm not sure what can be done. Missed classes aren't really an option in the Chemistry department, as all labs and assignments must be completed in succession. Honestly, I think she is just looking for excuses.

My syllabus clearly states that students are permitted to miss no more than 3 classes, which is beyond generous. Missing 4 classes is absolutely unacceptable, even if there was a "hearing" organized by your office.

Furthermore, the only accommodations I permit are ones mandated to me by Disability Services, and it doesn't seem like Ash has a disability, she just has some emotional issues.

Lastly, in your email, you kept referring to Ash as they, which is grammatically incorrect. I only use proper grammar in my classroom and he or she pronouns, as God intended. Entertaining pronouns is a violation of my religious beliefs.

EMPLOYEE CONCERNS

4C

YOU RECEIVE THE FOLLOWING EMAIL FROM A UNION REPRESENTATIVE:

Good afternoon,

I am writing on behalf of Gerri Jones, who, as you already know, has been accused of sexual harassment by their coworker, Dylan. Gerri has never made any jokes of sexual nature, so these allegations are just ludicrous. As you know, Gerri is the only white person in their department and is often experiencing discrimination.

Due to the hostile environment you've created by conducting an unnecessary investigation, Gerri no longer feels safe working with their colleagues. Attending department meetings has become detrimental to their wellbeing.

Under Code 528.03 of the Collective Bargaining Agreement, which you are intentionally violating, employees have the right to safety in their work environment and the ability to request support as needed. **I am hereby requesting that Gerri be excused from all campus meetings.**



info@grandriversolutions.com



/Grand-River-Solutions



/GrandRiverSolutions



/GrandRiverSolutions

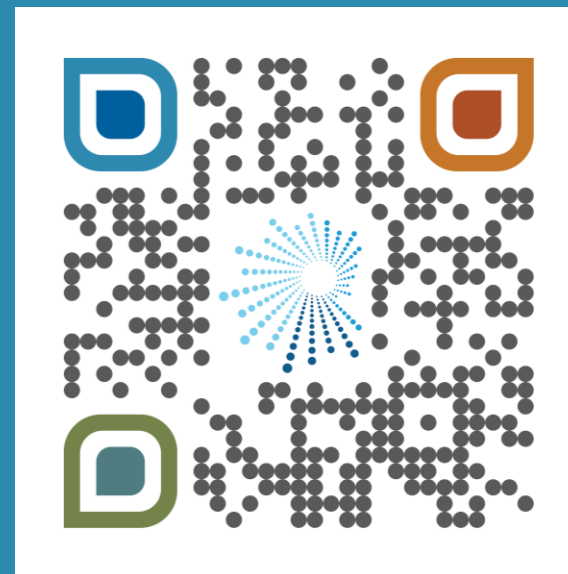


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