

Trauma-Informed Training for First Responders, Confidential Resources, and Campus Security



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1

1



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2

2

Agenda

- The Legal Landscape
- Title IX Team
- Neurobiology of Sexual Assault
- Creating a Culture of Understanding and Prevention





3

3

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1

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Terminology

- ED = Department of Education
- Recipient = Institutions covered by Title IX
- OCR = Department of Education's Office for Civil Rights
- VAWA = Violence Against Women Reauthorization Act
- FERPA = Family Educational Rights and Privacy Act
- CSA = Campus Security Authority
- Investigation/Grievance Procedures/Complaint Procedures
- Adjudicator/Decision-Maker
- Complainant/Reporting Party/Accuser/Victim/Survivor
- Respondent/Responding Party/Accused/Alleged Perpetrator

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Sexual Violence Statistics

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Sexual Violence Statistics

United Educators' Study

- 28% of reports resulted in lawsuits, demand letters, or federal Title IX complaints
- Types of sexual assault:
 - Incapacitation: 33%
 - Physical force: 29%
 - Failed consent: 16%
 - Sexual coercion: 13%
 - Drug-facilitated: 7%



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6

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Sexual Violence Statistics

- 78% of incidents involved one or both parties consuming alcohol
- 40% of complainants delayed reporting, waiting, on average, nearly a year after the incident
- 80% of complainants were freshmen or sophomores
- 90% of complainants knew the respondent






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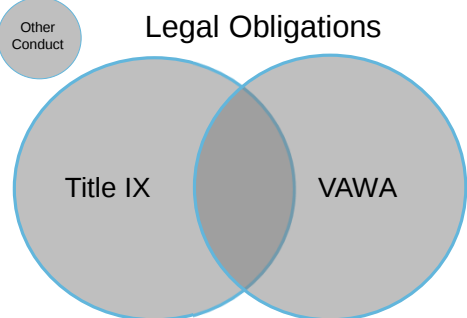
Legal Overview






8

Legal Obligations






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Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance”

20 U.S.C. § 1681



10

Who Must Comply With Title IX?

- Institutions that receive federal funds
 - Students
 - Employees
 - Third Parties
 - Visitors
 - Vendors



11

Discrimination “on the Basis of Sex”

- Includes:
 - Sexual harassment
 - Differential treatment



12

When an Institution Must Respond

- Institution has actual knowledge of
- Sexual harassment
- In an education program or activity of the institution
- Against a person in the United States




13

13

When an Institution Must Respond

- Actual knowledge
 - Notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or an official who has authority to institute corrective measures on behalf of the institution
 - Notice includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator
 - Vicarious liability and constructive notice are insufficient
 - Standard not met if the only official with actual knowledge is the respondent


14

14

When an Institution Must Respond

- Actual knowledge (cont.)
 - The following does not qualify an individual as having the authority to institute corrective measures
 - Mere ability or obligation to report sexual harassment
 - Ability or obligation to inform a student about how to report
 - Being trained in how to report


15

15

When an Institution Must Respond

- Education program or activity
 - Locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs
 - Includes all incidents of sexual harassment occurring on an institution's campus
 - Also includes off-campus conduct if
 - Occurs as part of the institution's "operations"
 - Institution exercised substantial control over the respondent and the context of alleged sexual harassment
 - Occurs at an off-campus building owned or controlled by a student organization officially recognized by the postsecondary institution (e.g., fraternities and sororities)



16

How an Institution Must Respond

- Must respond promptly in a manner that is not deliberately indifferent
- Deliberately indifferent = response is clearly unreasonable in light of the known circumstances
- Follow grievance process outlined in the regulations



17

The Legal Landscape

- All schools receiving federal funds must:
 - Publish Notice of Nondiscrimination
 - Designate a Title IX Coordinator
 - Disseminate policy prohibiting sex discrimination
 - Adopt and publish fair and equitable grievance procedures
 - Offer supportive measures to a complainant and respondent
 - Follow a legally compliant grievance process
 - Train individuals with heightened responsibilities
 - Train students and employees



18

OCR's Enforcement and Guidance

- OCR's Role:
 - Issue guidance
 - Compliance reviews
 - Resolution agreements




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19

Clery Act

- Provide accurate, timely, and complete information
- Regarding certain types of crimes/incidents
- Occurring on or adjacent to campus
- To promote campus safety and consumer protection




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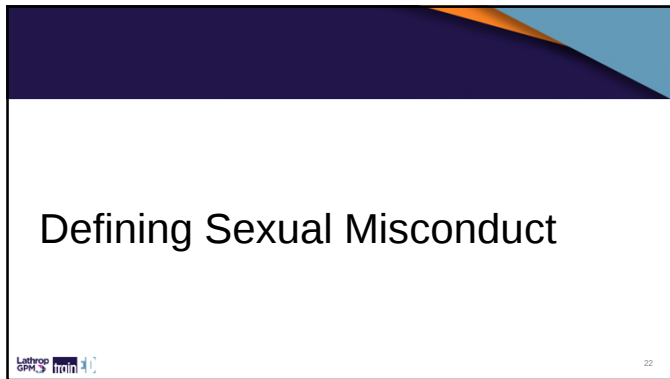
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Violence Against Women Reauthorization Act (VAWA)

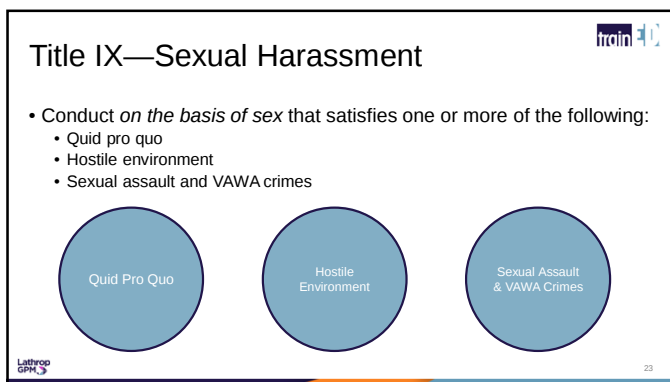
- Extends Clery crimes to include VAWA crimes: domestic violence, dating violence, and stalking
- Requires discipline procedures for addressing sexual assault and VAWA crimes
- Requires education programs to promote awareness


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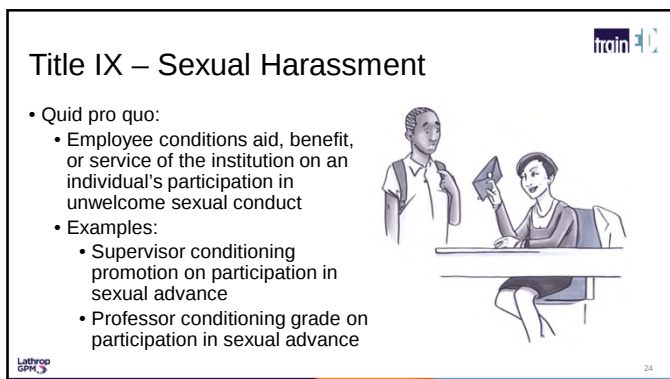
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Title IX – Sexual Harassment

- Hostile Environment:
 - Unwelcome conduct (on the basis of sex) determined by a reasonable person to be so *severe, pervasive, and objectively offensive* that it effectively denies a person equal access to the institution's education program or activity

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25

Title IX – Sexual Harassment

- Examples: Multiple incidents of the following conduct may constitute hostile environment sexual harassment
 - Unwelcome sexual flirtations, advances, or propositions
 - Requests for sexual favors
 - Verbal abuse of a sexual nature, obscene language, off-color jokes, sexual innuendo, and gossip about sexual relations
 - The display of derogatory or sexually suggestive posters, cartoons, drawings, objects, notes, letters, photos, emails, or text messages
 - Visual conduct such as leering or making gestures
 - Sexually suggestive comments about an individual's body or body parts, or sexually degrading words to describe an individual

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26

Title IX – Sexual Harassment

- Examples: Multiple incidents of the following conduct may constitute hostile environment sexual harassment
 - Unwelcome touching of a sexual nature such as patting, caressing, pinching, or brushing against another's body
 - Unwelcome verbal or physical conduct against an individual related to the individual's gender identity or the individual's conformity or failure to conform to gender stereotypes
 - Cyber harassment, including but not limited to disseminating information, photos, or videos of a sexual nature without consent
 - Videotaping or taking photographs of a sexual nature without consent

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27

27

Title IX—Sexual Harassment

- Sexual Assault
- VAWA Crimes
 - Dating violence
 - Domestic violence
 - Stalking
- As defined in Clery



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28

28

Title IX—Sexual Harassment

- **Sexual Assault:**
 - **Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object without the consent of the victim, including instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.

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29

29

Title IX—Sexual Harassment

- **Sexual Assault:**
 - **Criminal Sexual Contact:**
 - The intentional touching of the clothed or unclothed body parts or the forced touching by the victim of the actor's clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation, including instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.
 - **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent.

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30

30

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Consent

- No particular definition of consent with respect to sexual assault is required under Title IX or VAWA

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31

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VAWA Crimes

- **Domestic Violence:** a felony or misdemeanor crime committed by current/former spouse or intimate partner of the victim under domestic or family violence laws of the jurisdiction
- **Dating Violence:** violence by a person with whom victim has/had a social relationship of a romantic or intimate nature (determined by reporting party's perspective and length, type, and frequency of interaction)
- **Stalking:** course of conduct directed at a specific person that would cause a reasonable person to fear for safety or suffer substantial emotional distress



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32

32

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Title IX – Sexual Harassment

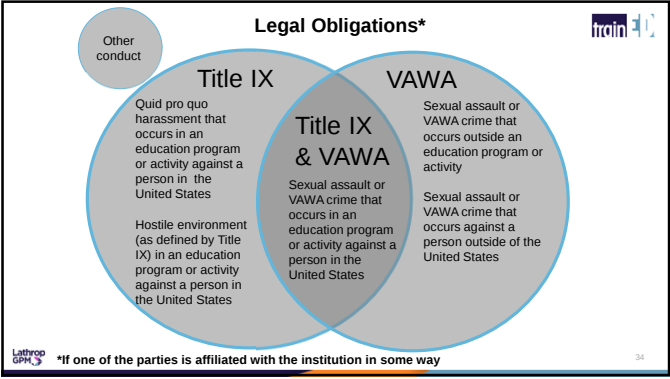
- Male/Female
- Female/Male
- Female/Female
- Male/Male

- Gender Identity

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33

33



34

Interaction with Other Laws

- FERPA: Family Educational Rights and Privacy Act
 - Limits disclosure of student education records
 - Several exceptions permit disclosure
 - In Title IX cases, exception permits school to disclose to both parties all directly related evidence, all information in the investigation report and attachments that goes to the decisionmaker, and statement of, and rationale for, the final results of any disciplinary proceedings or appeals, including sanctions and whether remedies will be provided
 - Required by Title IX
 - Does not include what the remedies are
 - In cases involving sexual assault/VAWA crime, exception permits school to disclose to the parties any information provided to the decisionmakers and the final results of the disciplinary proceedings, including *all* sanctions



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35

Interaction with Other Laws

- Mandatory reporting laws: state-specific laws requiring school employees to report child abuse
 - Mandatory reporters may include teachers, coaches, administrators, or others who interact with minors or who supervise those who interact with minors
 - Must report if know or reasonably suspect abuse or neglect of a child
 - Report to police or county department



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36

Risks of Non-Compliance

- OCR enforcement
- Clery Act enforcement
- Lawsuits
 - Private right of action under Title IX, breach of contract, interference with contract, negligence, negligence *per se*, negligent supervision, intentional infliction of emotional distress, defamation, violation of right to due process at public schools, invasion of privacy/violation of confidentiality
- Public relations





37

Case Study

Spotting the Issues





38

Case Study

- Zach tells his track coach that in the weight room a couple weeks ago, he and Aubrey, a member of the women's track team, were talking about lifting and then, out of the blue, Aubrey kissed him. Zach said he just stood there because he was caught off guard, and Aubrey kissed him again then touched him "down there." Zach said that he pushed her hand away and then another member of the track team walked in, and Aubrey left. Zach said he doesn't want to make a big deal about it and asks the coach not to tell anyone.
 - What potential policy violation(s) has Zach alleged?
 - Title IX obligations?
 - Clery obligations?





39

Title IX Team



40

40

Session Overview



- Identifying the Title IX Team
- Title IX Coordinator Responsibilities
- First Responders
 - Designated First Responders (Campus Safety Officers; Title IX Coordinator; Deputy Coordinators)
 - Confidential Employees
 - Other First Responders
- Case Studies

41

41

The Team



- Title IX Coordinator
- Deputy Coordinator(s)
- Investigators
- Adjudicators/hearing board
- Appeal officers
- Decision makers
- Campus Security
- Student Affairs
- Human Resources
- Counseling/support service providers
- Community partners
- Others



42

42

Title IX Coordinator Responsibilities

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43

43

Title IX Coordinator Responsibilities

- Create and implement policies
- Ensure training requirements are met
- Oversee the grievance process to ensure compliance and effectiveness
- Identify and address any patterns or systemic problems
- Additional responsibilities

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44

44

Responding to a Report

Report

Confidential Resource – Legally Privileged

Other Employees

?

Title IX Coordinator & Officials with Authority

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45

45

Response of Title IX Coordinator

- Title IX Coordinator can delegate intake duties to others but:
 - Avoid conflicts
 - Make roles and responsibilities clear



46

46

Title IX Coordinator's Response to Report

- Assess immediate safety and well-being for individual and campus
 - Consider whether emergency removal is necessary
- Notify complainant of right to contact law enforcement (or not to) and seek medical treatment; offer institution's assistance
- Enter into crime log, assess for timely warning
- Offer/provide supportive measures
- Explain the process for filing a complaint
- Provide written notice of rights to complainant (VAWA)
- Notify complainant of importance of preserving evidence (VAWA)



47

47

Responding to a Report - Supportive Measures

- Offered to complainant and respondent
- Must be non-disciplinary, non-punitive
- Must be without fee or charge to the complainant or respondent
- Available before or after the filing of a formal complaint or where no formal complaint is filed
- Designed to restore or preserve equal access to recipient's education program or activity without unreasonably burdening the other party
- Including measures designed to protect safety of all parties or the educational environment, or deter sexual harassment
- Must maintain as confidential as long as confidentiality does not impair ability of the institution to provide measures



48

48

Responding to a Report - Supportive Measures

- Examples
 - Mutual restrictions on contact between the parties
 - Change academic or extracurricular activities, living, transportation, dining, and working situations
 - Access to resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, legal assistance, visa and immigration assistance, campus escort services, increased security, and student financial aid
- If school does not offer these services, enter into MOU with local victim services provider, if possible

49

49

Responding to a Report

- Report vs. Formal Complaint
 - Report
 - Initiates obligation to respond, including offering supportive measures
 - Complainant's identity may be kept confidential from respondent
 - Formal Complaint
 - Initiates grievance process
 - Cannot be filed anonymously
 - Requires complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the complaint
 - Title IX Coordinator can sign a complaint
 - Grievance process requires that complainant's identity be disclosed to respondent, if known

50

50

Responding to a Report—Requests for Confidentiality or No Action

- Recommended Approach:
 - Factors to consider
 - Seriousness of the alleged harassment
 - Increased risk of additional violence by the respondent
 - Other complaints about the same respondent
 - History of violence from arrests/records from prior school
 - Respondent threatened further violence
 - Increased risk of additional violence under similar circumstances
 - Pattern of perpetration at a given location or with a certain group
 - Whether sexual violence was perpetrated with a weapon
 - Age of the complainant

51

51

Responding to a Report—Requests for Confidentiality or No Action

- Recommended Approach:
 - Factors to consider (cont.)
 - Whether school has other means to obtain evidence (security footage, eyewitness or physical evidence)
 - Notice will still need to identify parties involved
 - Rights of the respondent to receive information about the complainant and the allegations if a formal proceeding with sanctions may result
 - Whether the report alleges sexual harassment by an employee against a student
 - Whether the respondent is in a position of authority



52

52

Responding to a Report—Requests for Confidentiality or No Action

- Recommended Approach:
 - If the school determines it *can* honor the request for confidentiality/no action
 - Continue to offer supportive measures
 - If the school determines it *cannot* honor the request for confidentiality/no action
 - Inform the complainant prior to proceeding
 - Continue to offer supportive measures
 - Title IX Coordinator signs formal complaint and begins process



53

53

Q & A





54

54

The Complaint Process

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55

Informal Resolution

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- VAWA: No specific requirements
- Title IX:
 - Any time prior to determination, may facilitate informal resolution process, such as mediation, if
 - Provide parties with detailed written notice
 - Obtain parties' voluntary written consent to informal process
 - May not offer informal resolution unless a formal complaint is filed
 - May not offer or facilitate informal resolution to resolve allegations that an employee sexually harassed a student

56

Formal Grievance Process

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- The process the school uses to resolve sexual harassment complaints. This includes the fact-gathering investigation and any hearing or decision-making process the school uses to determine:
 - Whether or not the conduct occurred using
 - Preponderance of the evidence standard ("more likely than not") or
 - Clear and convincing evidence standard ("highly probable"); and
 - If the conduct occurred, what actions the school will take to eliminate the hostile environment, prevent its recurrence, and remedy its effects, which may include:
 - Imposing sanctions on the respondent;
 - Providing remedies for the complainant; and
 - Addressing the campus community

57

Formal Grievance Process—Equal Rights for the parties

- Interview/hear from both parties
- Equal opportunity for parties
 - Identify/present fact witnesses and evidence, including inculpatory and exculpatory evidence
 - Access to evidence (if any) (Title IX and VAWA)
 - Must allow access for sexual assault/VAWA
 - Must send hard copy or electronic format for Title IX
 - Right to an advisor (may be attorney) (Title IX and VAWA)
 - May limit extent of participation (must apply equally)
 - If party has no advisor, school will provide for cross-examination
 - Participate in pre-hearing meeting (if any)
 - Identify/present character or expert witnesses (if any)
- Written notice of
 - Meetings
 - Allegations
 - Informal Complaint Process
- Written simultaneous notices of determination



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Formal Grievance Process

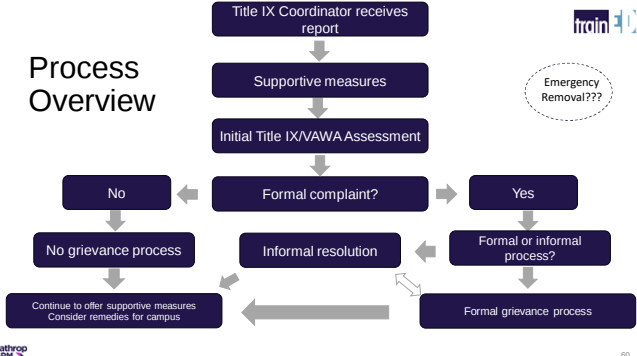
- Privileged information
 - Do not require, allow, rely upon, otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless person holding such privilege has waived the privilege
- Treatment records
 - Institution cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the school obtains that party's voluntary, written consent to do so



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59

Process Overview





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60

Criminal Process

- Institution's complaint process is separate from criminal investigation
- Institution may not dissuade complainant from going to police in cases involving allegations of criminal conduct—should encourage reporting to police
- Institution may temporarily delay for initial police investigation
 - Prior guidance said police evidence-gathering stage typically takes 7-10 days
 - Must resume when notified that police are done gathering evidence
- Institution may not delay for criminal prosecution



61

61

First Responders



62

62

Who are First Responders?

Designated

- Title IX Coordinator and Deputy Coordinators
- Campus Security

Confidential

- Counselors
- Health center personnel
- Clergy
- Others with legal privilege

Other

- Title IX team
- Student services
- RAs and other residential staff
- Coaches
- Faculty
- Others



63

63

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Role of All First Responders

- Assist the institution in stopping harassment, preventing its recurrence, and addressing its effects
 - Speak up if you see inappropriate behavior
 - Encourage reporting – help break down barriers to reporting
 - Build confidence in the school's process, so perpetrators are held responsible
 - Make Title IX Coordinator aware of reports*
 - Handle matter discreetly – need to know (generally just Title IX Coordinator)*
 - Create awareness of available resources and supportive measures to ensure that complainants get help

*Confidential employees must keep all reports confidential and cannot share report unless statutory exception applies



64

Designated First Responders



65

Role of Designated First Responder

- Institution-specific decision – Level of involvement in process and at what point to hand matter over to Title IX Coordinator or Deputy Coordinator
- If responsible for intake of report/complaint
 - Allow individual to provide a narrative account
 - Use form to document the report/complaint, helpful to know:
 - Who – name of respondent, relationship to complainant, relationship to institution (student, staff, faculty, visitor)
 - What – nature of allegation (differential treatment, sexual harassment, sexual assault, domestic violence, dating violence, or stalking) – don't need all of the details
 - When – Date and time the alleged incident occurred
 - Where – location of alleged incident



66

Role of Designated First Responder

- If responsible for intake of report/complaint (cont.)
 - Obtain consent to move forward with process, if not, explain that Title IX Coordinator will evaluate request for confidentiality
 - Review policy and procedures, including supportive measures, right to report to police, available resources
 - Provide written notice of rights

67

67

Clery CSAs

- "Campus Security Authority" under Clery
 - Campus security department
 - Individuals or organizations designated to receive reports of criminal incidents from students and employees
 - Officials who have significant responsibility for student and campus activities
- Clery reporting duties
 - If CSA receives a report of a Clery crime – must include it as a crime report in Clery statistics (daily crime log and annual security report)
 - If CSA receives a report of a Clery crime and institution considers it to be a serious or continuing threat to students and employees – timely warning
 - Process for gathering statistics varies from institution to institution

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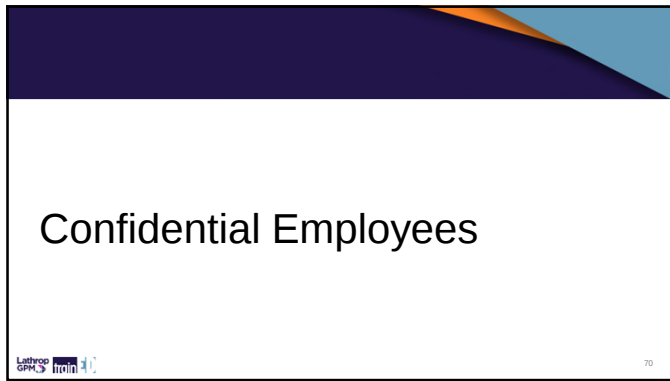
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Role of Campus Safety

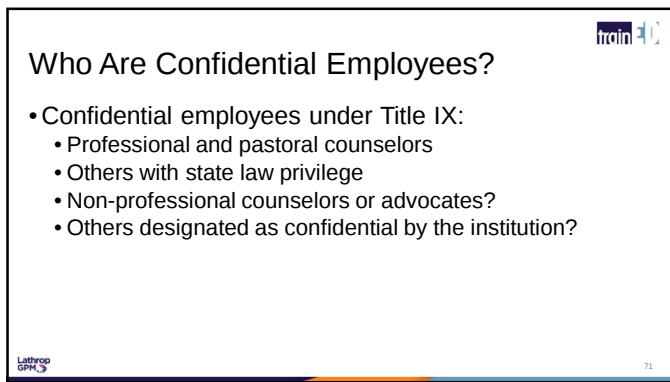
- Level of involvement is an institution-specific decision
 - Likely conduct intake of report/complaint
 - May be involved in initial risk assessment and immediate protective actions, if any
 - May serve as investigator

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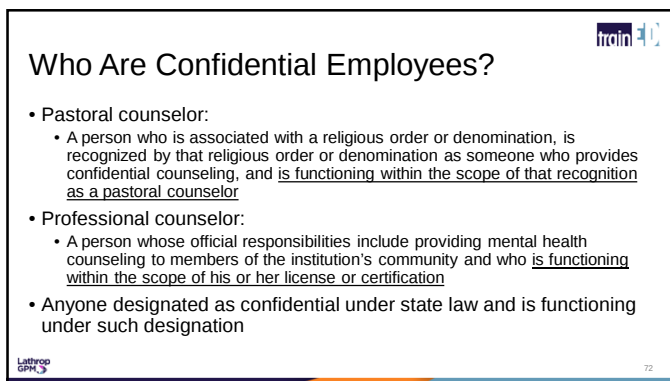
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71



72

Who Are Confidential Employees?

- Non-professional counselors or advocates?
 - Other individuals who provide assistance to individuals who experience sexual violence, but who are not professional or pastoral counselors
 - Includes all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers, including front desk staff and students
- Confidential employee?
 - Depends on state law



73

Student Health Services: Confidential Resources

- Screen students for incidents of sexual violence and sexual harassment
- Receive training:
 - best practices for interacting with victims
 - preserving evidence
 - campus disciplinary processes
 - locally available resources
- Must be available to meet with victims



74

Who Are Confidential Employees?

- Others designated as confidential by the institution?
 - An employee designated by the institution as confidential for purposes of providing services to persons related to sexual misconduct
- Caution!
 - Only confidential as to the institution – may be required to disclose in the event of a legal process later
 - Risk that knowledge could trigger institution's response obligations if it is later determined that individual is an official who has authority to institute corrective measures on behalf of the institution



75

Case Study

- Melanie is a nurse at the University's student health center. A student, Danielle, comes in for an appointment. Danielle tells Melanie that she wants to be tested for STDs because a few weekends ago, she had sex with her ex-boyfriend without a condom. As she is speaking with Melanie, Danielle starts crying and says that she told him that she didn't want to have sex but "he did it anyway." Danielle tells Melanie she is having a really hard time and has stopped going to class and hanging out with friends.
- Should Melanie report the alleged assault to the Title IX Coordinator?
- Does the institution have a Clery reporting obligation related to the alleged assault?



76

76

Case Study

- Is there anything Melanie should tell Danielle about the University's policies?



77

77

Information Confidential Resources Should Provide to Complainants

- Provide complainants with reporting options and rights
 - Explain right to report to campus authorities and/or local law enforcement
 - Offer to assist with filing such complaints
- Discuss the reporting and the campus disciplinary processes (institution specific)
 - Complaint filed with Title IX Coordinator
 - Informal or formal resolution
 - Describe process – i.e. fact-finding investigation, possible hearing
 - Interim measures, possible sanctions



78

78

Information Confidential Resources Should Provide to Complainants

- Discuss process if report to law enforcement
 - What is the local legal process for sexual assault or sexual harassment claims?
- Inform/offer information regarding legal assistance
- Discuss/offer campus resources for counseling, medical, and academic support, as well as other support services or interim measures



79

Information Confidential Resources Should Provide to Complainants

- Discuss the importance of preserving evidence
 - Try to avoid activities that could damage evidence, such as: bathing, showering, cleaning up the area, using the rest room, changing clothes, brushing hair, doing laundry
 - Try to store any physical evidence in an impermeable or non-porous container
 - Write down everything you can remember about the incident as soon as possible
 - Take photographs
 - Save any text messages, Facebook messages, Twitter messages, etc. that could be helpful
 - Record the chain of custody



80

Information Confidential Resources Should Provide to Complainants

- Discuss school's prevention of and response to retaliation
 - Title IX includes protections against retaliation
 - School officials will not only take steps to prevent retaliation, but also take strong responsive action if it occurs
 - This includes retaliatory actions taken by the school and school officials



81

Information Confidential Resources Should Provide to Complainants

- Disclose institution's limited ability to respond if request for confidentiality
- Written notice of rights (resources, how to request interim measures)





82

Case Study

- Sarah is a pastor and works part time as the College chaplain. She also teaches Christian Feminist Theology, a course offered by the College's Religion Department. Ray, a student in Sarah's class, meets with Sarah during office hours to discuss his final paper. Sarah notices that Ray seems stressed and anxious, so she asks Ray how he is doing. Ray tells Sarah that he is stressed about his upcoming finals and that Taylor, a student whom Ray has dated on and off for the last few months, keeps messaging Ray and asking to meet up. Ray says that he told Taylor that he wanted to take a break from dating during finals, but that Taylor keeps leaving gifts outside his door and calling him incessantly while he is trying to study. Ray says that Taylor has also started to wait for him outside the library and dining hall.
- Should Sarah report the alleged conduct to the Title IX Coordinator?
- Does the institution have a Clery reporting obligation related to the allegations?





83

Limitations on Confidential Employees – Dual Roles

- Employees who have state law privilege must be functioning within the scope of their recognition as pastoral counselor or of their professional license or certification





84

Other First Responders

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85

85

Case Study

- Luisa, a student who works in the University library, gets upset during her shift. She tells her supervisor, Barbara, that she doesn't want anyone else to know but that "something bad" happened the previous weekend.
- How should Barbara respond?

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86

86

Employee Reporting Obligations

- Recommended approach:
 - All non-confidential employees report potential sexual harassment to Title IX Coordinator
 - If unsure whether to report, ask Title IX Coordinator for guidance without sharing identifiable information

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87

87

Role of Other First Responders

- Role does NOT include:
 - Keeping report confidential from Title IX Coordinator
 - Investigating the complaint* – not your job to get all of the details
 - Adjudicating the complaint*
 - Answering detailed questions relating to process
 - Promising that institution won't move forward with process unless individual consents

*If you play dual role – serving as first responder and investigator/adjudicator on same case – may create conflict



88

Other First Responders: Responding to a Report

- If possible, before information revealed disclose:
 - You are not a confidential employee
 - Depending on information shared may be required to report to Title IX Coordinator
 - You cannot promise confidentiality, but will be discreet
- Only share information with individuals responsible for handling the institution's response (e.g., Title IX Coordinator, Deputy)
- If an individual wants confidentiality, offer assistance in finding a confidential employee or other confidential resource



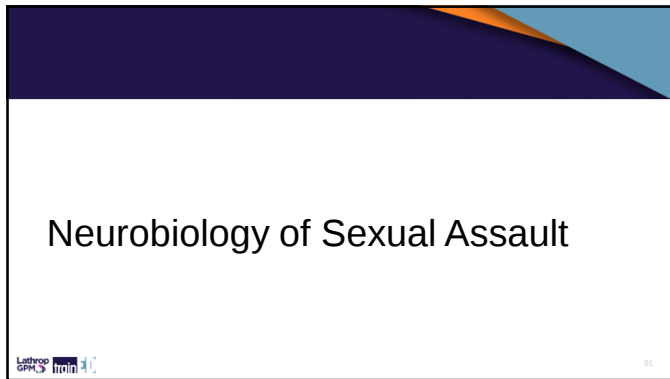
89

Other First Responders: Responding to a Report

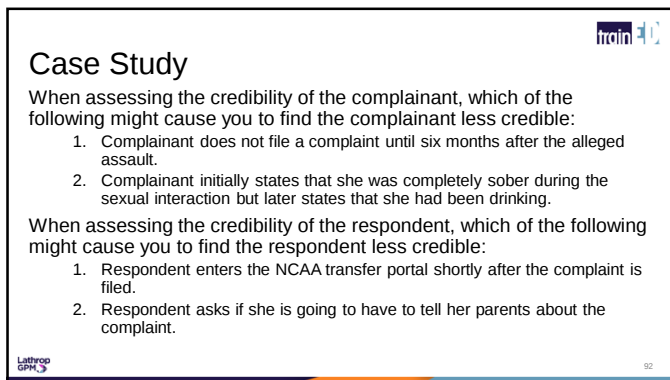
- Explain institution's process including:
 - Report to Title IX Coordinator
 - Offer to assist the individual in reporting to Title IX Coordinator
 - Explain if you have information of possible sexual misconduct, you must report to Title IX Coordinator
 - Title IX Coordinator evaluates request for confidentiality
 - Supportive measures available
 - Protections against retaliation
 - Complaint resolution process (institution specific)
 - Discuss the importance of preserving evidence
- Direct individual to Title IX Coordinator for specific questions



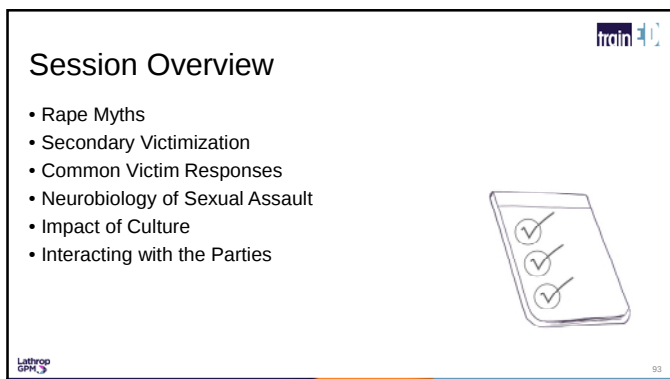
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91



92



93

Rape Myths

Myth	Reality
Rape is primarily sexually motivated	Rape combines elements of power, anger and sexuality
Rapists are usually strangers	Most perpetrators are known to the victim
The victim did something to cause the rape	No behavior warrants being raped; under no circumstances can the victim be blamed
Acquaintance rape is not as traumatic	There are no differences in victim psychological symptoms between acquaintance and stranger rape



94

94

Secondary Victimization

- Secondary victimization:
 - The attitudes, beliefs, and behaviors that victims experience as victim blaming and insensitive
 - It exacerbates their trauma, and it makes them feel like what they're experiencing is a second rape — hence the term "secondary victimization"





95

95

Secondary Victimization

- Examples of behaviors:
 - Discouraging the victim from making the report
 - Telling victim it's not serious enough to pursue
 - Asking about dress, behavior, or what they might have done to provoke the assault
- Psychological impact on victims:
 - Blamed
 - Depressed
 - Anxious
 - Violated
 - Reluctant to seek help





96

96

Common Victim Responses

- Initial denial of incident
- No reporting/delayed reporting
- Maintaining contact with perpetrator
- Fight, flight, or freeze

97

97

Neurobiology of Sexual Assault

The Neurobiology of Sexual Assault

98

98

Neurobiology of Sexual Assault

Brain Regions Impacted by Trauma

99

99

Neurobiology of Sexual Assault

Brain-Body Regions Impacted by Trauma

HPA Axis

Balances body following stress by releasing of various hormones/chemicals

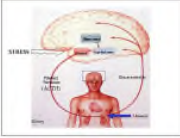


Diagram illustrating the HPA Axis, showing the hypothalamus, pituitary, and adrenal glands, and the release of stress hormones.

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100

Neurobiology of Sexual Assault

Brain-Body Regions Impacted by Trauma

Catecholamines: Fight or flight response

Cortisol: Energy available

Opioids: Prevent pain

Oxytocin: Promotes good feelings

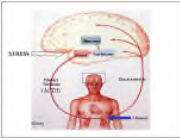


Diagram illustrating the Brain-Body Regions Impacted by Trauma, showing the hypothalamus, pituitary, and adrenal glands, and the release of stress hormones.

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101

Neurobiology of Sexual Assault

Brain Regions Impacted by Trauma

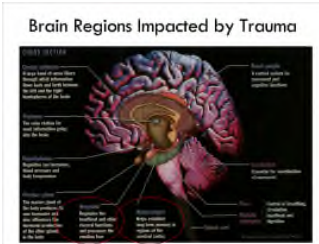


Diagram illustrating the Brain Regions Impacted by Trauma, showing the hypothalamus, pituitary, and adrenal glands, and the release of stress hormones.

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102

102

Neurobiology of Sexual Assault

Memory Processes Impacted by Trauma

Hippocampus processes information into memories

Encoding = Organizing sensory information

Consolidation = Grouping information into memories and storing them

Amygdala specializes in the processing of emotional memories (works with the hippocampus)

Both structures are **VERY** sensitive to hormonal fluctuations

SOURCE: Southwick et al., 2002



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103

Neurobiology of Sexual Assault

Like These . . .

Catecholamines: Fight or flight response

Cortisol: Energy available

Opioids: Prevent pain

Oxytocin: Promotes good feelings

THESE HORMONES IMPAIR MEMORY CONSOLIDATION

SOURCE: Southwick et al., 2002



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104

Neurobiology of Sexual Assault

What Happens During A Sexual Assault

Amygdala Detects Threat → Activates Hypothalamus → HPA Axis Kicks In Hormonal Flood

SOURCE: Baro, 2003; Southwick et al., 2002



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105

Neurobiology of Sexual Assault

What Happens During A Sexual Assault

- Catecholamines Increase → Impairs rational thought
- Opioids Increase → Causes flat affect
- Corticosteroids Decrease → Reduces energy

SOURCE: Banks, 2003; Southwick et al., 2003

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106

Neurobiology of Sexual Assault

What Happens During A Sexual Assault

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    graph LR
      A[Amygdala Detects Threat] --> B[Activates Hypothalamus]
      B --> C[HPA Axis Releases Hormonal Flood]
      C --> D[Can Trigger a Complete "Shut Down" in the Body]
  
```

SOURCE: Banks, 2003; Southwick et al., 2003

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107

Neurobiology of Sexual Assault

Tonic Immobility (TI)

- AKAs: "Rape-induced paralysis"
- Autonomic (uncontrollable) mammalian response in extremely fearful situations
- Increased breathing, eye closure, paralysis
- 12-50% rape victims experience TI during assault
- TI is ~more common in victims who have been assaulted before (childhood, adolescence, or adult)

SOURCE: Koss et al., 2007; Calhoun et al., 1993; Field et al., 2008

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108

Common Behaviors During Assault

- Impaired rational thought
- Flat affect
- Reduced energy
- Flight
- Fight
- Freeze

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109

Memory

What Happens During A Sexual Assault

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110

110

Memory

What Happens During A Sexual Assault

Increased Stress Hormones

Impaired Functioning in Hippocampus

Memories Fragmented

Memory Recall Can Be Slow & Difficult

BUT...

Alcohol use during the assault may prevent encoding, which means there's nothing to retrieve

Events of the assault CAN be recalled accurately

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Impact of Trauma on Memory

- Memories accurately stored
- Memory recall slow
- Fragmented account
- Concentration difficult
- Alcohol exception—may impact storage and accuracy of memories



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112

Impact of Culture

- Cultural background is one of many factors that may impact the way that complainant, respondent, and witnesses react to the incident and present during the investigation interviews
- Different cultural backgrounds will influence individuals in different ways
- Be aware of and sensitive to possible cultural influences
- Incorporate training as appropriate



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Trauma-Informed Approach Gone Wrong

- University of Mississippi lawsuit based in part on its training materials
 - Victims sometimes withhold facts and lie about details
 - Victims lie about anything that casts doubt on their account of the event
 - When complainants withhold exculpatory details or lie to an investigator or the hearing panel, the lies should be considered a side effect of an assault
- A trauma-informed approach should not unfairly favor the complainant or prejudice the decision-maker against the respondent

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114

Take Away

- Do not automatically draw negative inference based on a behavior that may be a response to trauma
- If an individual exhibits behaviors associated with trauma, it does not automatically mean that individual experienced trauma
- A response consistent or inconsistent with a typical trauma response should not in and of itself be outcome determinative

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115

Interacting with Complainant: Responding to a Report

- Offer to go with individual to Title IX Coordinator to make a report/file a complaint
- If individual instead chooses to tell you:
 - Allow individual to tell their account
 - Slow down
 - Make individual feel comfortable
 - Not "investigating" allegation – don't need all of the details
 - Don't ask questions about what individual was wearing
 - Don't ask if the individual said no, yelled for help, tried to fight, tried to run
 - Use "account" or "experience" – not "story"
 - Don't draw conclusions – you aren't adjudicating
 - Take detailed notes after the individual is done
 - Be transparent about how information will be used
 - Contact the Title IX Coordinator

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116

Interacting with Respondent

- Recognize stress involved with being accused of sexual misconduct
 - Respondent may be defensive or nervous
- Do not appear to take sides
- Don't draw conclusions – you aren't adjudicating
- Use impartial language
- Explain complaint process
- Afford same opportunity to provide narrative of experience
 - Not "investigating" allegation – don't need all of the details
- Be transparent in your roles and responsibilities
- Be transparent in how information will be used
- Contact the Title IX Coordinator

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117

117



Serving Impartially

- Separate support/advocacy services from investigation/adjudication process
- Conflation of roles can:
 - Impact thorough assessment of the facts
 - Create distrust/confusion by the parties
 - Give appearance of bias/lack of impartiality


118

118



Sources of Information

- NIJ Presentation by Rebecca Campbell
- trainED gratefully acknowledges the U.S. Department of Justice, Office of Justice Programs, and National Institute of Justice for allowing us to reproduce, in part or in whole, the recording of The Neurobiology of Sexual Assault. The opinions, findings, and conclusions or recommendations expressed in this recording are those of the speaker(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice.


119

119



Q & A




120

120

Creating a Culture of Understanding & Prevention



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121

Missing the Mark

- Common Concerns from Students:
 - Lack of clarity and transparency in policy and process
 - Lack of communication and coordination with parties
 - Lack of fairness and equity
 - Complainants discouraged from reporting
 - Retaliation/harassment and re-victimization
 - Inadequate support during and after process
 - Failure to accommodate documented disabilities
 - Dissatisfaction with outcome or sanctions
 - Inadequate training, education, and prevention programs

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122

Creating a Culture of Understanding

- Confidentiality – Revisited
 - Importance of Confidential Employees
 - Make confidential employees and other confidential resources available and publicize their availability
 - Train employees to notify complainants of their right to talk to a confidential employee or other confidential resource
 - Many complainants will end up reporting after talking to a confidential employee or other confidential resource
 - Even if confidentiality is not requested, always respect the parties' privacy
 - These practices will create trust on your campus and encourage reporting

Confidentiality

Trust

Reporting

Responding and Preventing

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123

Training

Who?

- Title IX Coordinators
- Investigators
- Individuals on hearing panels or who have responsibility for student discipline decisions
- Student Affairs/HR
- Residence Life staff
- Security
- Counseling staff
- Other employees likely to witness or receive reports – faculty, certain staff, coaches, and athletic department members
- Student leaders
- New students and employees
- Existing students and employees



124

124

Awareness and Prevention

- Collaboration with Title IX Coordinator
- Training for employees
- Training for students
 - bystander awareness
 - consent, incapacitation, coercion
 - the role of alcohol in sexual misconduct
 - reporting and resources
 - consequences of sexual harassment
 - discrimination
 - hazing and bullying
 - healthy relationships
- Awareness campaigns – It's on Us, Locker Room Talk
- Collaborations between student groups on campus



125

125



126

126

Q & A



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trained

127

127

On Demand Trainings

- Annual Training for New Title IX Coordinators and Deputy Coordinators
- Annual Training for Advanced Title IX Coordinators and Deputy Coordinators
- Title IX/VAWA Investigator Training
- Conducting a Live Hearing Under Title IX/VAWA
- Title IX/VAWA Appeal Officer Training
- Trauma-Informed Training for First Responders, Confidential Resources, and Campus Security
- Non-Hearing Adjudicator Training
- Informal Resolution Training
- Supplemental Decisionmaker Training on Live Hearings
- Conducting a Grievance Process Under the 2020 Final Title IX Regulations
- Title IX Update: 2020 Final Regulations

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128

128
