Title IX Investigators

TRAINING

February 4-5, 2020
South Seattle College
Georgetown Campus

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Title IX Administrator

Whitman College
Disclaimer

This training is designed to be accurate and authoritative, but I am not providing legal advice. Attendees remains solely responsible for compliance with all applicable laws, regulations, and standards within their respective states and on their individual campuses or within their school district or organizations. If legal or other expert advice is desired attendees should seek advice from their institution’s legal counsel.

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child of Title IX

diverse higher education experiences

lead Title IX investigator

vested interest
Day 1 Agenda

8:30   Housekeeping, Introductions, & Pre-Assessment
8:45   Learning Objectives & Ground Rules
8:50   Title IX 101
10:30  Break
       Investigation Bookends: Gatekeeping & Closing
Noon  Lunch break
1:15   Neurobiology of Trauma
3:00   Break
3:15   Working with Claimants, Responding Parties and Witnesses
4:30   Debrief/Download
5:00   Adjourn
Learning Objectives

- Participants will demonstrate skills necessary to conduct culturally competent, trauma-guided investigations.
- Participants will be able to organize all components of an investigation.
- Participants will be able to demonstrate an understanding of Title IX guidance, regulations and expectations.
Ground Rules:
Extend grace and latitude.
Ask questions.
Challenge your assumptions & biases.
Engage in this training.
Practice self-care.
Evolution of Title IX & Campus SaVE Act

1964
Civil Rights Act

1972
Title IX

1990
Jeanne Clery Act
Campus Crime Reporting

1992
Franklin v. Gwinnett County

1998
Gebser v. Lago Vista

1999
Davis v. Monroe County

2001
OCR Guidance

2013
VAWA Reauth.

2015
Title IX Resource Guide

2017
2011 DCL & 2014 FAQs Rescinded

2018
New Proposed Regulations

2019
Notice & Comment

2013
Campus SaVE Act

2018
Proposed Regulations

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2019
Notice & Comment

Title IX of the Education Amendments of 1972

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 education program or activity receiving federal financial assistance.
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As the continuum shifts to the right, the level of violence increases.

- suggestive looks
- cat calls
- sexist comments
- inappropriate jokes
- verbal harassment
- obscene calls/texts
- obscene emails
- emotional abuse
- voyeurism
- stalking
- exposure
- cyber stalking
- forced fondling
- sexual assault
- physical violence
- penetration
- without consent
What assumptions do we make about consent education?
noun
1. permission for something to happen or agreement to do something.
   "no change may be made without the consent of all the partners"
synonyms: agreement, assent, acceptance, approval, approbation

verb
1. give permission for something to happen.
   "he consented to a search by a detective"
   Synonyms: agree to, assent to, yield to, give in to, submit to
What are our bystander intervention expectations?

bystander
ˈbīˌstandər/

noun
a person who is present at an event or incident but does not take part.

synonyms: onlooker, looker-on, passerby, nonparticipant, observer, spectator, eyewitness, witness, watcher, gawker; Informal rubbernecker "bystanders witnessed the accident"
perpetrator
accused
respondent
responding party

bystander
intervener

victim
survivor
accuser
complainant
claimant
Stalking is a pattern of repeated and unwanted attention, harassment or contact directed at a specific person that would cause a reasonable person to feel fear.
#ThatsNotLove
Intimate Partner Violence is physical, sexual or psychological harm or threat of harm, by a current or former partner.
The term “intimate partner violence” describes physical violence, sexual violence, stalking and/or psychological aggression (including coercive acts) by a current or former intimate partner.

This can include coercion and threats, intimidation, emotional abuse, isolation, minimizing, denying, and blaming, using children, economic abuse, and privilege.
About 1 in 4 women and 1 in 10 men experienced contact sexual violence, physical violence, and/or stalking by an intimate partner and reported an IPV-related impact during their lifetime.
Increases Dependence
- Isolation
- Violation of Personal Space

Decreases Self-Esteem
- Emotional Abuse
- Limiting Self-Expression
- Testing

Instills Fear
- Threats & Rumors
- Intimidation and Physical Violence
- Stalking

Rebecca Harrington, SUNY Oneonta
Nearly 90% of rape victims know their offender.

52% of all victims were between 18 and 29 years old when they were stalked.

Approximately 98% of sexual assault accusations reported to police are true.

Between 20% and 25% of women will experience rape before graduating college.

10% of all sexual assault victims are male.

On average, at least 47% of college students’ sexual assaults are associated with alcohol use.

In a year, 6.6 million people are stalked in the U.S.
Sexual assault is when one person without consent or by force or threat of harm makes another person have oral, vaginal, anal sex; attempted to have oral, vaginal or anal sex with another person; or touched another person in an unwelcomed, uninvited sexual manner.
1 in 5 women experienced completed or attempted rape during her lifetime.

1 in 14 men was made to penetrate someone (completed or attempted) during his lifetime.
61% of bisexual women have experienced rape, sexual violence, or stalking.

64% of gay men have experienced rape, sexual violence, or stalking.

44% of lesbians have experienced rape, sexual violence, or stalking.

37% of bisexual men have experienced rape, sexual violence, or stalking.

26% of students transfer schools or change majors after being assaulted.

42% of students who identify as LGBTQ reported forced sex.

25% do not report for fear of hostile police treatment.
MALE COLLEGE STUDENTS AT RISK

Males ages 18-24 who are college students are approximately 5 times more likely than non-students of the same age to be a victim of rape or sexual assault.
STATS ON SEXUAL ASSAULT

Student or not, college-age adults are at high risk for sexual violence. Among female college students, 23% said they have experienced some form of unwanted sexual contact.

Male college-aged students (18-24) are 78% MORE likely than non-students of the same age to be a victim of rape or sexual assault.

Female college-aged students (18-24) are 20% LESS likely than non-students of the same age to be a victim of rape or sexual assault.

Stats: (according to CNN.com and Rainn.org)
26% of gay men and 37% of bisexual men compared to 29% of heterosexual men experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime.

Nearly half of stalking victimizations against males were also perpetrated by males.

Perpetrators of other forms of violence against males were mostly female.

Male rape victims and male victims of non-contact unwanted sexual experiences reported predominantly male perpetrators.

44% of lesbian women and 61% of bisexual women experienced rape, physical violence, and/or stalking by an intimate partner in their lifetime compared to 35% of heterosexual women.
How do you ensure an equitable process?

- provide notice, access to information and support to all parties
- use the preponderance of evidence standard
- Follow your procedures and protocols from notice through appeal
When are you on notice and what does that mean?

When, why, and how does an investigation commence?

What support will you need as an investigator?
Last night, a student disclosed to a friend that another student sexually assaulted them in an off-campus residence two weeks ago.
Last night, a student disclosed to a faculty member that another student sexually assaulted them in an off-campus residence two weeks ago.
Last night, a student disclosed to a faculty member that another student sexually assaulted them in an on campus locker room two weeks ago.
Last night, a student disclosed to a faculty member that another student sexually assaulted them in an on campus locker room two weeks ago. The student reluctantly shares that they had been drinking prior to the incident with some other friends. The student is afraid to reveal who else was with them as he is afraid they will get in trouble for underage drinking.

Amnesty Provisions
Last night, a student disclosed to a faculty member that another student sexually assaulted them in an on campus locker room two weeks ago. The student reluctantly shares that they had been drinking prior to the incident with some other friends. The student is afraid to reveal any more because they are afraid about what the alleged aggressor might do.
Model the type and mode of communication that the parties can expect during the process.
No information supports the claim

Preponderance of evidence

Clear and convincing

Beyond a reasonable doubt

All information supports the claim
HELLO
I AM...

SUING YOU
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Holds thoughts and memories

Helps us manage emotion and regulate behaviors

Allows us to focus our attention where we want and do what we choose
Amygdala Detects Threat → Activates Hypothalamus → HPA Axis Kicks In Hormonal Flood

(Banks, 2002; Southwick et al., 2005)
**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

(Southwick et al., 2005)
Damage to memory

Impairs rational thought

Cathecholamines Increase

Reduces energy available

Impair immune functioning

Corticosteroids Decrease

Causes flat affect

Opioids Increase

(Banks, 2002; Southwick et al., 2005)
Amygdala Detects Threat → Activates Hypothalamus → HPA Axis Kicks In Hormonal Flood → Can Trigger a Complete “Shut Down” in the Body

(Banks, 2002; Southwick et al., 2005)
threat arousal

mobilization (fight or flight)

freeze (evaluating for fight or flight)

social engagement tend and befriend

tonic immobility

collapsed immobility
Threat Causes Arousal
Muscle tone, metabolism, emotion, presence, focus, thinking, behavior all change.

Humans Tend and Befriend and Socially Engage
Humans learn safety from caregivers. Our first response is to check the humans around us. If we perceive people acting safely, we feel safe.
As the perception of threat escalates we default to more primitive responses.
Orientation / Social Engagement
Neck, face, throat and jaw muscles and oxygen control change in response to threat.
Mobilization
Sympathetic Nervous System
‘Fight-or-Flight’, Adrenaline and then Cortisol
Immobilization, Dissociation, Opioids released
As the perception of threat escalates we default to more primitive responses.
Once an institution has notice, it has a duty to respond to the allegation.

The Title IX administrator will determine the need for an investigation as a response and oversees any investigation. An investigator interviews all parties to determine each person’s perspective of the incident.

The finding is based on a preponderance of evidence standard of proof.
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Interview all persons involved
Allow parties to have adviser accompany them
Keep complete and accurate records & notes
(record if possible)
Ask interviewees to sign a summary of interview notes checking for accuracy
Provide a report
Proactive, regular communication and open dialogue is what drives reliable execution.

-Al Chiaradonna
Timelines and Expectations
Scheduling
Office supplies
Support supplies
Interview setting
Room scheduling
Interview scheduling
Documentary evidence
Paired Process

What would you need to know from your Title IX Coordinator to do your job well?
What does it mean to be trauma-guided versus trauma-informed?
Consider burdens on all participants in the process.

Process should be designed to not unduly burden either party.

Provide BOTH students with equitable resources

BOTH parties will be navigating some form of trauma.
Claimants should be believed and heard.

Responding parties are always presumed innocent under the university or college process.
A support person is defined as a person who provides support, guidance, or advice to a party during sexual misconduct proceedings.
Thank the party for attending the interview. Verbalize your understanding of the difficulty.

Acknowledge the adviser and explain the role that they will play in the process.

Explain your role as an impartial investigator.

Address any preliminary questions.
When will you be talking with the responding party?

Who will know about this? Parents? Adviser? Professors? Employer?

What if I cannot continue with this process?

When will you be talking with the responding party?
What happens if the claimant files criminal charges?

What happens if I don’t answer your questions?

Can my lawyer be present?

Who can I talk to about this?
Who will take the lead?
How will you start?