



Title IX Training

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SAUL EWING

Agenda

- Title IX Regulatory Update
- Highlights of the 2024 Regulations
 - Key concepts
 - Pregnancy & Parenting
 - Recordkeeping
- Title IX Foundation
- Procedures for Investigation & Adjudication



Where are we and what's the plan?

TITLE IX REGULATORY UPDATE

Title IX Regulatory Update

- August 1, 2024: Effective date of amended regulations
- Injunctions

As of August 28, 2024, pursuant to Federal court orders, the Department is currently enjoined from enforcing the 2024 [Final Rule](#) in the states of Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming; the Department is also currently enjoined from enforcing the 2024 Final Rule at the schools on the list located at <https://www2.ed.gov/about/offices/list/ocr/docs/list-of-schools-enjoined-from-2024-t9-rule.pdf>. Per Court order, this list of schools may be supplemented in the future. The Final Rule and this resource do not currently apply in those states and schools. Pending further court orders, the Department's Title IX Regulations, as amended in 2020 ([2020 Title IX Final Rule](#)) remain in effect in those states and schools.

- What can we expect?

Key concepts

2024 TITLE IX REGULATIONS

What is Sex Discrimination?

- Adverse action, including differential treatment
- “Based on sex”
 - Sex stereotypes
 - Sex characteristics
 - Sexual orientation
 - Gender identity
 - Pregnancy & related conditions
 - *Parental, Family, or Marital Status*
- Sex-Based Harassment
 - Quid Pro Quo
 - Hostile Environment
 - Sexual Assault, Dating Violence, Domestic Violence, Stalking
- Retaliation

Participation By Gender Identity

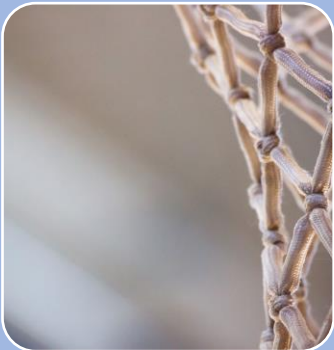
- Individuals must be permitted to participate in activities consistent with their gender identity
 - Failure to permit such participation subjects an individual to more than *de minimis* harm
 - Could constitute Sex Discrimination
- Except that it is not Sex Discrimination to require participation according to sex assigned at birth under the limited circumstances in which Title IX explicitly permits different treatment or separation on the basis of sex

Participation By Gender Identity



Facilities

- Sex-separate housing
- Restrooms
- Locker rooms



Open questions remain

- Does not apply to male and female athletic teams
- Does not speak specifically to interpersonal “misgendering”
- First Amendment Considerations

Grievance Procedures

- Regulations expand access to grievance procedures beyond sex-based harassment – now includes sex discrimination
- Complaints of sex discrimination may be brought by any person participating or attempting to participating in the education program or activity – not necessarily the complainant
- When the school is a respondent, some procedural protections may not apply (necessarily)
 - If an individual is named as a respondent for implementing a school rule or policy, the school may substitute them out

34 C.F.R. § 106.45

Title IX protections and institutional obligations

PREGNANCY & PARENTING

2020 Title IX Regulations

- Non-discrimination
- Must not require health certifications (unless required of others)
- May offer access to separate parts of the education program or activity
 - *BUT must be voluntary and provide equal opportunities*
- Must treat pregnancy in the same way temporary disabilities are treated
 - *Although a healthy pregnancy is not a disability under the ADA or Section 504*
- Must provide leave as medically necessary
 - *Student must be able to return to the same academic and extracurricular status upon return*

2024 Title IX Regulations

- Retain everything from previous slide with additions!
- New definitions for pregnancy or related conditions
 - Mandatory referral to Title IX Coordinator
 - Followed by required disclosures by Title IX Coordinator
- Availability of Section 106.45 grievance procedures
 - Previously, non-discrimination policy (not Title IX policy) would apply
- Must make reasonable modifications
 - Must not constitute a fundamental alteration
 - Puts limits in place on supporting documentation that can be requested
- Must provide voluntary leaves of absence
- Must provide lactation space

Definitions

- **Pregnancy or Related Conditions:** includes pregnancy, childbirth, termination of pregnancy (including abortion), and lactation, all related medical conditions (including mental health conditions), and recovery from pregnancy or related conditions
- **Parental Status:** "the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:
 - A biological parent;
 - An adoptive parent;
 - A foster parent;
 - A stepparent;
 - A legal custodian or guardian;
 - In loco parentis; or
 - Actively seeking legal custody, guardianship, visitation, or adoption

34 C.F.R. § 106.2

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Mandatory Referral

- When an employee learns of a student's pregnancy or related condition, the employee must:
 - provide the Title IX Coordinator's contact information and
 - inform the student that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure equal access

Disclosure must be from *the student*

- Requirement does not apply if employee reasonably believes Title IX Coordinator is already on notice
- Unless school requires otherwise

Title IX Coordinator Response

➤ The Title IX Coordinator must then:

- Notify the student of the school's obligations, including non-discrimination
- Provide access to reasonable accommodations
- Allow voluntary access to a separate and comparable portion of the education program or activity
- Allow a voluntary leave of absence with reinstatement
- Ensure availability of lactation space
- Limit requests for supporting documentation
- Provide comparable treatment to other temporary medical conditions
- Not require certification to participate (with limitations)

34 C.F.R. § 106.40

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Reasonable Modifications

- Reasonable modifications to policies, practices, or procedures
- As necessary to prevent sex discrimination and ensure equal access
- Must be based on a student's individualized needs
- School must consult with the student (interactive process)
- Not reasonable if fundamental alteration
- If a student accepts the offered modification, it must be implemented
- Supporting documentation only required if reasonable and necessary to determine reasonable modifications (*i.e.*, no pregnancy tests)
 - Different standard than the disability services office requires
 - Title IX Coordinator can delegate, but must maintain ultimate oversight

34 C.F.R. § 106.40(b)(3)(ii)(A)-(B)

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Voluntary Leave of Absence

- For, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider
- If qualified for leave under another leave policy that allows a greater period of time than the medically necessary period, the student can take voluntary leave under that policy instead, if the student chooses to do so
 - Emphasizes importance of integrated leave policies (health, personal, military, etc)
- When the student returns, the student must be reinstated to the same academic and (as practicable) extracurricular status that they held when the voluntary leave began

34 C.F.R. § 106.40(b)(3)(iv)

Lactation Space

- Other than a bathroom
- Clean
- Shielded from view
- Free from intrusion of others
- Consider:
 - Additional amenities (e.g., chair, outlet, sink, fridge, flat surface/table)
 - Access “after hours”
 - Ease of use (e.g., campus map, repurposing of furnishings)

34 C.F.R. § 106.40(b)(3)(v))

2020 → 2024

RECORDKEEPING

Recordkeeping

- Seven year retention period
- Applies to Reports, Complaints, and records documenting response
 - Supportive Measures
 - Emergency removals or administrative leaves
 - Informal Resolution Processes
 - Grievance Procedures, including outcomes
 - Result of Informal Resolution Process
 - Determination of responsibility
 - Disciplinary Sanctions and/or Remedies
 - Appeals and results

New Obligations → New Retention Requirements

- Records documenting action taken by the school to address any barriers identified to reporting misconduct
- Records documenting the institution's actions taken to satisfy its obligations to ensure equal access for individuals due to Pregnancy or Related Conditions
 - E.g., facilitating reasonable modifications for Students
 - Facilitating temporary adjustments for employees
 - Providing leave or lactation time

Framework for understanding Sexual Misconduct Policy & UWC Procedures

TITLE IX FOUNDATION

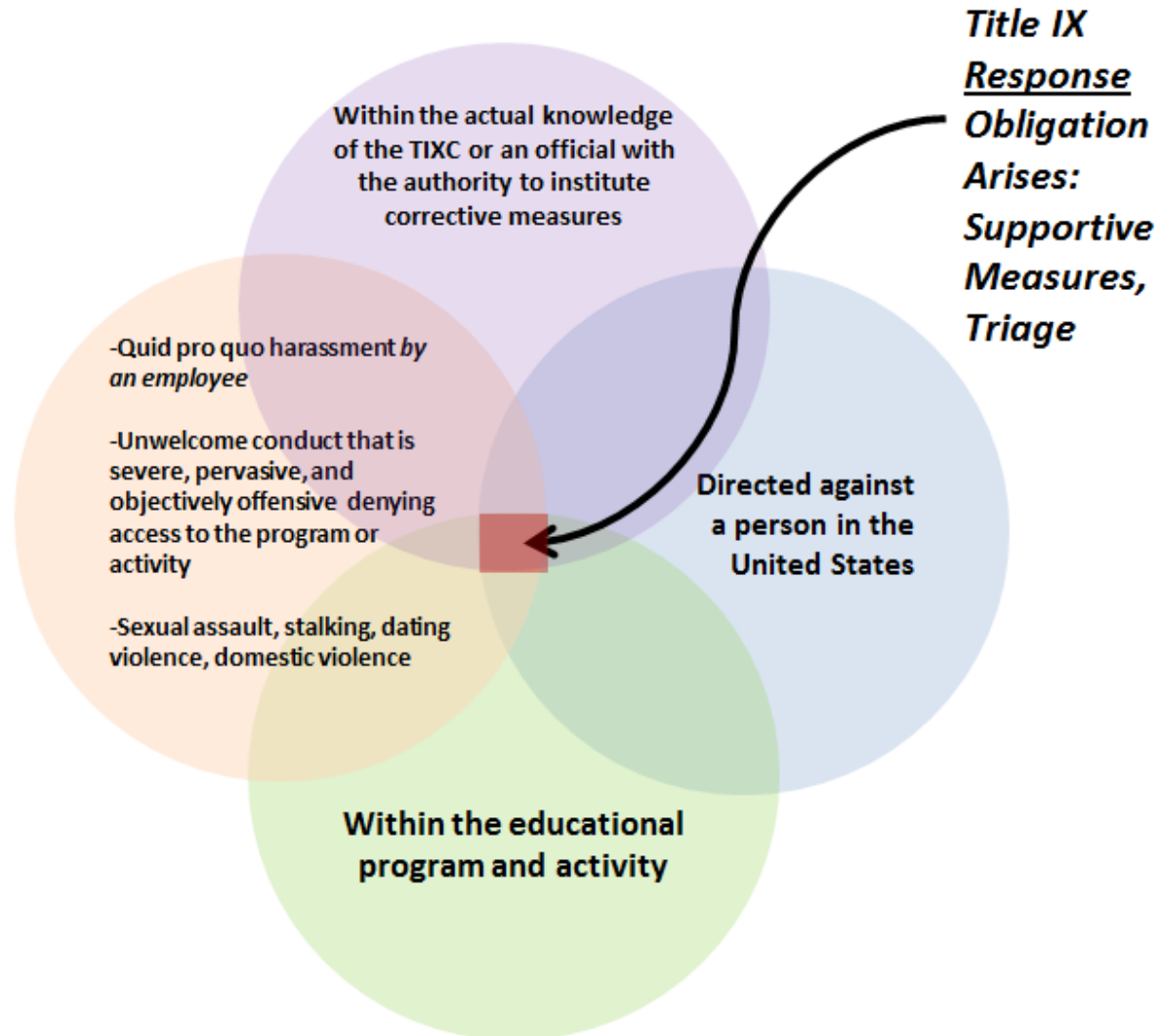
The Foundation: Principle #1

If you have actual knowledge of sexual harassment that occurred in your education program or activity against a person in the United States, then you must respond promptly in a manner that is not deliberately indifferent.

2020 Standard

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Title IX Jurisdiction



2020 Standard

Scope: Sexual Harassment

Sexual Harassment means: conduct *on the basis of sex* that satisfies one or more of the following –

- (i) an **employee** of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (ii) unwelcome conduct determined by a *reasonable person* to be so **severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the recipient's education program or activity;
- (iii) "**sexual assault**" as defined 20 U.S.C. 1092(f)(6)(A)(v), "**dating violence**" as defined in 34 U.S.C. 1229(a)(10), "**domestic violence**" as defined in 34 U.S.C. 12291(a)(8), or "**stalking**" as defined in 34 U.S.C. 12291(a)(30)

§ 106.30

2020 Standard

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Jurisdiction: Program or Activity

Education program or activity includes:

- ✓ Locations, events, or circumstances . . .
- ✓ whether on campus or off campus . . .
- ✓ over which Yale exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

Also includes:

- ✓ any building owned or controlled by an officially recognized student organization.

§ 106.44(a)

2020 Standard

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The Sexual Misconduct Policy

- Covers a broader swath of conduct than “Sexual Harassment” as contemplated by 2020 Title IX regulations
 - **Title IX Sexual Misconduct** (Section 4)
 - Sexual Harassment
 - Sexual Assault
 - Intimate Partner Violence
 - Yale Policy on Relationships between Staff Members
 - Policy on Teacher-Student Consensual Relations
- Has broader jurisdictional boundaries than required by Title IX (*See* Section 5).

The Foundation: Principle #1



2024 CHANGE ALERT!

- Notice (not “actual knowledge”) → Prompt & effective response
- Sex, Sex Discrimination, and Sex-Based Harassment definitions
- Additional prescribed grievance procedures
- “Education program or activity” is an expanded concept

Response Obligation, Part One

The Title IX Coordinator must:

1. promptly contact the complainant to discuss the availability of supportive measures;
2. consider the complainant's wishes with respect to supportive measures;
3. inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
4. explain to the complainant the process for filing a formal complaint.

§ 106.44(a)

2020 Standard

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Supportive Measures

- **Non-disciplinary, non-punitive** individualized services,
- offered as appropriate, as reasonably available, and without fee or charge,
- to the complainant or the respondent,
- including as designed to restore or preserve equal access to the recipient's education program or activity **without unreasonably burdening** the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.
- **Critical to document all supportive measure decisions (for or against)**

2020 Standard

§ 106.45(a)(3)

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Supportive Measures



2024 CHANGE ALERT!

- Fact-specific inquiry to assess burden
- Broadening of scope of presumptively acceptable measures
- Modification/termination provisions
- Challenges/appeals

The Foundation: Principle #2

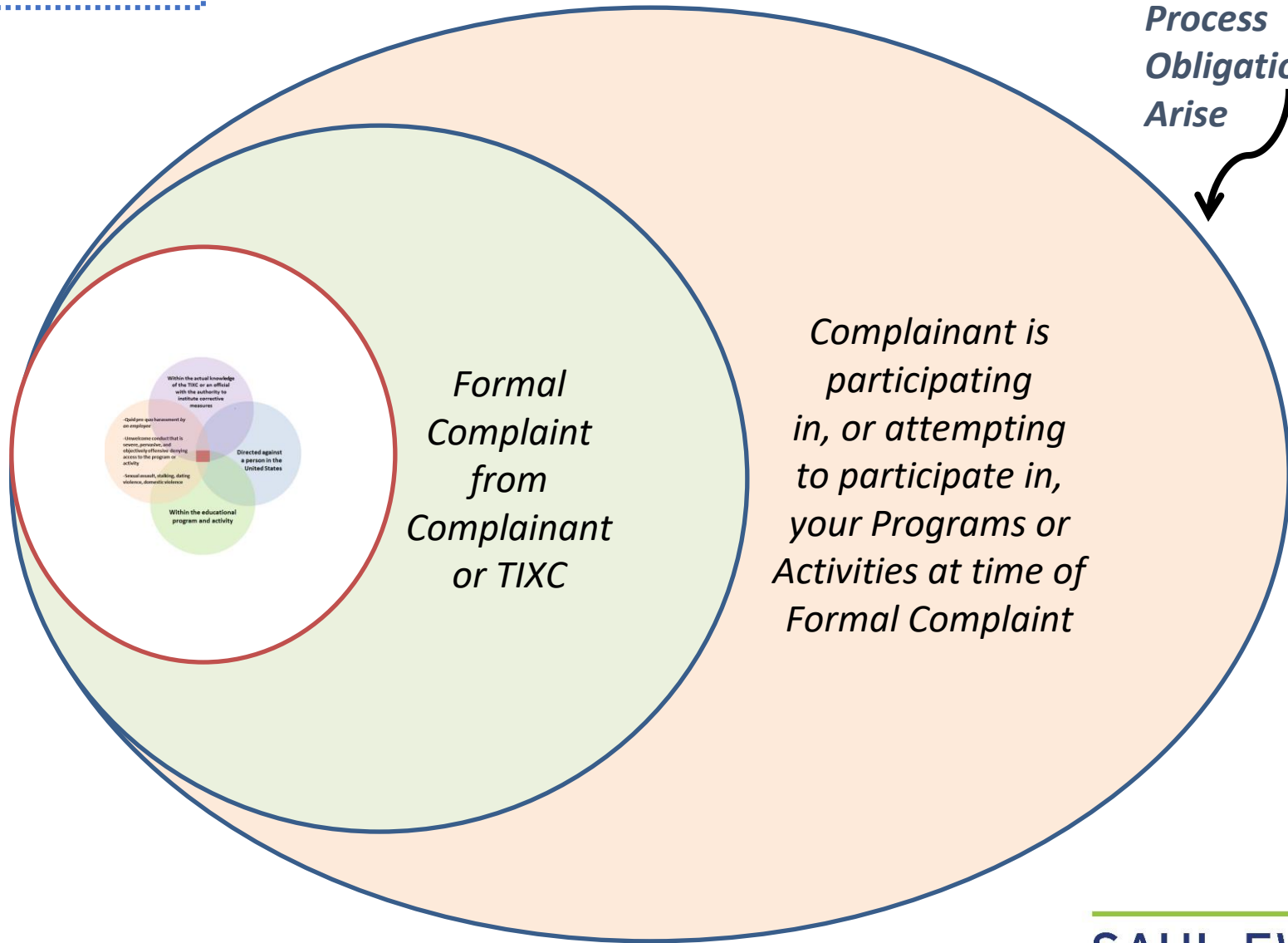
If you receive a formal complaint of sexual harassment signed by a complainant who is participating in or attempting to participate in your education program or activity, then you must follow a grievance process that complies with Section 106.45.

2020 Standard

SAUL EWING

2020 Standard

**§106.45
Grievance
Process
Obligations
Arise**



The Grievance Process



*If no informal resolution is reached

The Foundation: Principle #2



2024 CHANGE ALERT!

- Complaints can be oral or written
- Not limited to “sexual harassment”
- More people can make a complaint
- Two sets of prescribed grievance procedures

Procedures of the University-Wide Committee on Sexual Misconduct

RESOLUTION OF COMPLAINTS

Dismissal For Title IX Purposes

Must dismiss the relevant allegations in the Formal Complaint when:

- the conduct alleged in the Formal Complaint would not constitute Sexual Harassment;
- the conduct alleged in the Formal Complaint, even if proved, did not occur in the University's education program or activity;
- the conduct alleged in the Formal Complaint did not occur against a person in the United States; *or*
- the complainant is not participating or attempting to participate in the programs or activities.

May dismiss the relevant allegations in the Formal Complaint:

- if, at any time during the Investigation or Hearing, the Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint (or any allegation therein);
- the Respondent is no longer enrolled or employed by the University; *or*
- specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

Written Notice of Allegations

☐ To Whom?

- ☐ “parties who are known”

☐ What to Include?

- ☐ Identities of parties involved in incident
- ☐ Conduct allegedly constituting sexual harassment
- ☐ Date and location of alleged incident
- ☐ Statement that respondent is presumed not responsible; determination regarding responsibility will be made at conclusion of process.
- ☐ Right to an advisor; availability of support and assistance
- ☐ Right to inspect and review
- ☐ Statement of policy re: false allegations and retaliation

☐ When to Send?

- ☐ “With sufficient time to prepare a response before any initial interview”
- ☐ Update as needed throughout investigation

106.45(b)(2)(B)

Alternative Resolution

- Voluntary (both parties must agree)
 - Can be stopped at any time (formal process started or continued)
- Not utilized to resolve allegations of an employee's Sexual Misconduct against/involving a student complainant
- May be offered any point after a formal complaint of Title IX Sexual Misconduct has been filed and before a determination regarding responsibility has been reached.
 - *[Formal complaint not necessary for other SM]*

Appointment

- After accepting a complaint for a formal proceeding, the Chair will appoint:
 - an investigator to investigate the complaint;
 - a hearing officer, trained as an attorney, to preside over the hearing of the complaint and participate in deciding the case;
 - three UWC members to serve with the hearing officer on the hearing panel and participate in deciding the case; and
 - an appellate decision maker, who must be a tenured faculty member on the UWC (collectively, “appointees”).

Appointment

- The Secretary will send a written notice to the parties, providing the names of the appointees and informing the parties of their opportunity to object to the participation of one or more appointees.
- The appointees will receive a copy of the complaint and must withdraw from the proceeding if their relationship to the complainant or the respondent or other circumstances lead them to believe that they have a conflict of interest or bias or if requested to withdraw by the Chair.

All About Advisors

- An individual who provides support, guidance, or advice to a party
 - May not submit documents—either directly or indirectly—on a party's behalf
- May be a parent, a member of the University community, or any other person (including an attorney)
- During the Investigation, the advisor's role is purely supportive – the advisor may not speak on behalf of the Complainant or Respondent during any part of the Title IX process, except for a Hearing
- If and when a Hearing is held, each party shall have an advisor present (one will be appointed by the University for any party who does not select an advisor on their own)

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Investigation: The Basics

- ☐ The institution **must investigate** allegations of a **Formal Complaint**
- ☐ Trained Investigator(s)
- ☐ Written Notice of Allegations (*update if necessary*)
- ☐ Written Notice of any investigative interview(s)
- ☐ Burden on institution/investigator to collect evidence
- ☐ Both Parties = Equal Advisor Rights (*can be an attorney*)
- ☐ Both Parties = Right to Present Witnesses/Evidence (*including “experts”*)
- ☐ Voluntary, Written Consent to Access Medical/Mental Health Records
- ☐ Both Parties = Right to Inspect & Review Any Evidence “Directly Related”
- ☐ Both Parties = Meaningful Opportunity to Respond to Evidence
- ☐ Investigative Report = Fairly Summarize Relevant Evidence
- ☐ Both Parties = Right to Review & Respond to Investigative Report
- ☐ Retain Records for 7 years

Step One: Gathering Evidence

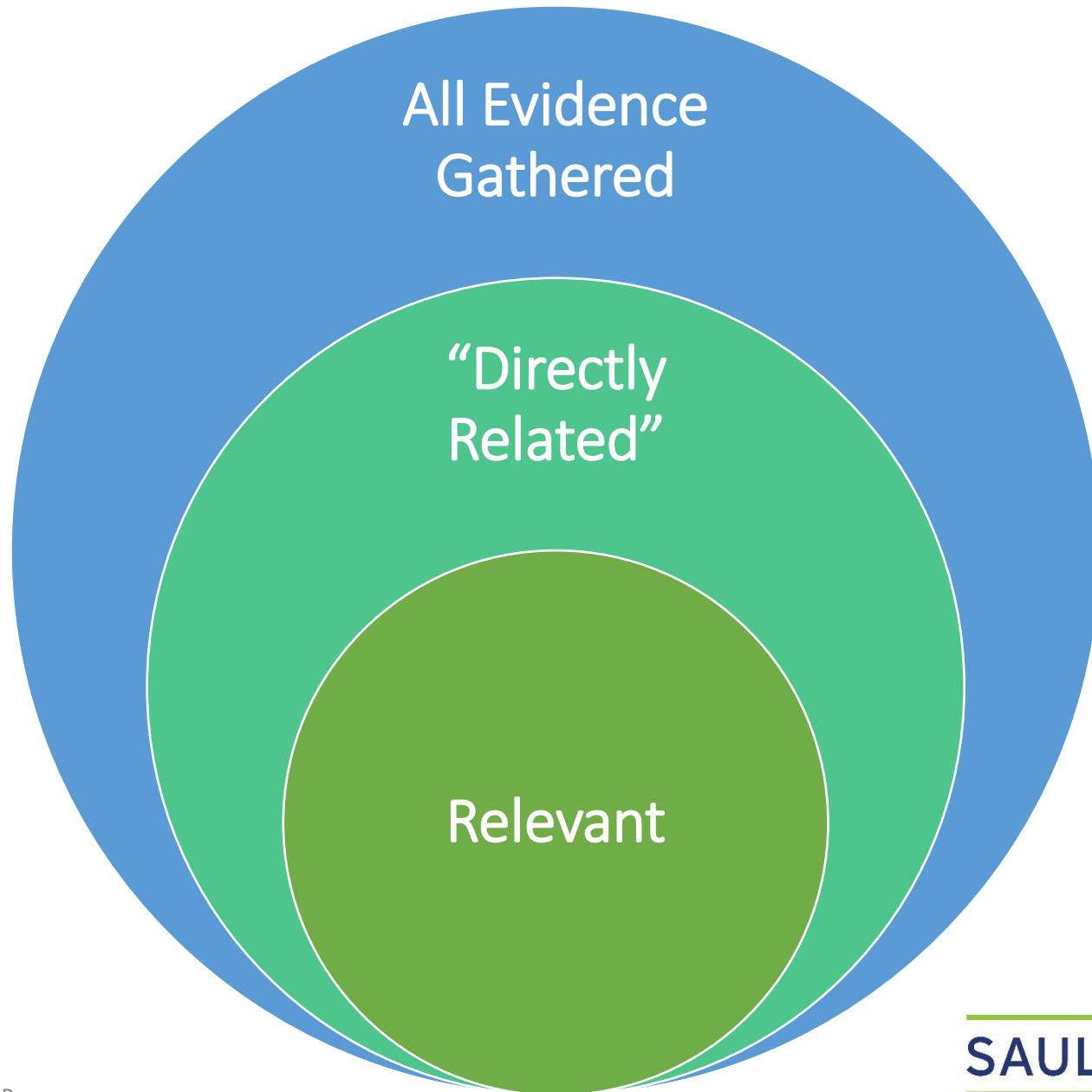
- The Investigator must gather **all available evidence sufficient to reach a determination regarding responsibility**.
- The investigator should:
 - undertake a thorough search,
 - for relevant facts and evidence,
 - while operating under the constraints of completing the investigation under designated, reasonably prompt timeframes,
 - and without powers of subpoena.

85 FR 30292

Step Two: Review of and Response to Evidence

- Both parties given equal opportunity to *inspect and review* evidence that is *directly related* to the allegations in the formal complaint
- Evidence must be sent to each party, and their advisors (if any), in an electronic format or hard copy

§ 106.45(b)(5)(vi)



Step Two: Review of and Response to Evidence

- Evidence that must be shared includes:
 - evidence upon which the University does not intend to rely in reaching a responsibility determination
 - Inculpatory & exculpatory evidence, whether obtained from a party or other source
- *Note: all of the evidence that subject to review and response must be made available at the hearing*

Step Three: The Report

After the parties have had the opportunity to inspect, review, and respond to the evidence, the Investigator must –

- Create an investigative report that **fairly summarizes relevant evidence**

At Yale, the UWC Chair & Secretary review the draft report and, after the report is finalized –

- Send the report to each party and their advisor (if any) for their review and written responses.

§ 106.45(b)(5)(vii)

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What is Relevant Evidence?

“The requirement for recipients to summarize and evaluate relevant evidence, . . . appropriately directs recipients to focus investigations and adjudications on *evidence pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true* (i.e., on what is relevant).” 85 FR 30294

What is Not Relevant?

- The following information is considered **per se not relevant** (or is otherwise automatically excluded):
 - Complainant's prior sexual behavior (subject to two exceptions) or predisposition;
 - Any party's medical, psychological, and similar treatment records without the party's voluntary, written consent; and
 - Any information protected by a legally recognized privilege unless waived.

85 FR 30293 n. 1147

Step Three: The Report

“[T]hese final regulations do not prescribe the contents of the investigative report **other than specifying its core purpose of summarizing relevant evidence.**” 85 FR 30310

Good practice to include:

- Summary of allegations
- Policy provisions potentially implicated
- Timeline of investigative process
- Description of the procedural steps taken
- Summary documents collected/reviewed
- Summary of witness interviews
- Summary of relevant evidence
- Any unsuccessful efforts to interview or obtain documents
- Parties’ responses to evidence (if any)



THE HEARING

The Hearing Officer & Panel

- Serve impartially
 - Avoid prejudgment of the facts at issue, bias, and conflicts of interest
- Preside over the hearing
- Objectively evaluate all relevant evidence
 - Inculpatory & exculpatory
- Independently reach a determination regarding responsibility
 - Cannot give deference to an investigation report

The Hearing

- Live
- With Cross-Examination
 - *Opportunity for Hearing Panel to ask questions of parties/witnesses, and to observe how parties/witnesses answer questions posed by the other party*
- Results in a determination of responsibility

Mechanics of Party Questioning

- **Step 1, Question:** Advisor asks the question.
- **Step 2, Ruling:** Hearing Officer determines whether question is relevant.
 - If not relevant, the Hearing Officer must explain reasoning to exclude question.
 - If relevant...
- **Step 3:** Question must be answered.

Outcome Determination

At the conclusion of the hearing, the Hearing Panel must make a determination regarding responsibility

- Based on the preponderance of the evidence
- The Hearing Panel assigns weight & credibility to evidence.
- Responsibility determinations must be made by a majority vote.
- If Respondent is found responsible, the Panel will consider whether to provide remedies and impose a penalty.
 - If imposing a penalty of 3+ terms of suspension, expulsion, or termination, the determination must be unanimous

Remedies may include:

Modifications of work or
class schedules

Campus escorts

Mutual contact restrictions

Changes in work or housing
locations

Limitations on respondent's
access to Yale programs
and activities, including
removal of the respondent
from campus

Increased security and
monitoring of certain areas
of the campus

Counseling

Extensions of
deadlines/other course-
related adjustments

Notice of Outcome

1. **Allegations** alleged to constitute Title IX Sexual Misconduct;
2. **The procedural steps taken** from receipt of the formal complaint through the determination of responsibility;
3. **Findings of fact** supporting the decision;
4. **Conclusions** regarding the application of **Yale's Sexual Misconduct Policies** to the facts;
5. The Panel's **rationale for the result** of each allegation, including for the determination of responsibility;
6. **Any disciplinary sanctions** imposed on the respondent, **whether remedies** will be provided to the complainant; and
7. Information regarding the **appeal process**.

§ 106.45(b)(7)(ii)



After the Hearing & Notice of Outcome

APPEALS

Mandatory & Equal Appeal Rights

- Either party may appeal from a **determination regarding responsibility** or **dismissal of a formal complaint**
- **Exclusive grounds for appeal:**
 - **Procedural irregularity** that affected the outcome of the matter;
 - **New evidence** that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
 - The Title IX Coordinator, the Chair, the Secretary, the investigator, the hearing officer, or another panel member had a **conflict of interest or bias** for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Appeal Outcomes

- If an appeal of a dismissal is granted, the matter will return to the Secretary for further proceedings
- If the appeal of a decision on responsibility is granted, the matter will be returned to the hearing panel—or, in the case of conflict of interest/bias, a newly appointed panel—for reconsideration.
 - The appellate decision-maker may give the hearing panel instructions regarding the nature and extent of the reconsideration.
 - The hearing panel will promptly reconsider the matter and the hearing officer will issue a new decision report.
 - The appellate decision-maker will review the new decision report for conformity with the appeal decision and will either approve the new decision or revise it.
 - The Secretary will send the approved or revised decision report simultaneously to both parties.
 - No further appeals are allowed.

PROCESS	TIME PERIOD
Notice by the parties of their intention to use an attorney as an advisor	Must be received by the Secretary at least five days in advance of the first meeting that the advisor will attend
Chair's appointment of an investigator	Within seven days after the UWC accepts the complaint
Parties' written objections to appointees	Must be received by the Secretary within five days after parties receive notice of the appointees' names
The parties' response to the evidence gathered by the investigator	Must be received by the Secretary within 10 days after the parties receive the evidence
The Secretary sends the investigation report to the parties	Within 60 days after the investigator's appointment
The parties' witness list and response to the investigation report	Must be received by the Secretary within 10 days after the parties receive the investigation report
The first day of the hearing	No sooner than 15 days after the parties receive the investigation report
The Secretary sends the hearing panel's report to the parties	Within 14 days after the hearing
Appeal by either party	Must be received by the Secretary within seven days after the parties receive the hearing panel's report
Response to an appeal	Must be received by the Secretary within seven days after the opposing party's receipt of the appeal
Decision on appeal	Within 14 days after the appellate decision maker receives the appeals and any responses

Serving Impartially, Without Conflicts of Interest or Bias

- Title IX Coordinators, investigators, decisionmakers, and other resolution process facilitators must not have
 - a conflict of interest or bias for or against Complainants or Respondents generally, or
 - for or against an individual Complainant or Respondent
- Bolstered by positional restrictions
 - Informal Resolution Process facilitators must not be the investigator or decisionmaker in the Grievance Procedures
 - Decisionmaker may be the Title IX Coordinator or investigator, but appeals based on alleged conflict of interest or bias that affected the outcome of the matter must be allowed
 - Other built-in safeguards

Prejudgment

- Passing judgment on the allegations before adjudication
- Jumping to conclusions without fully investigating the allegations and gathering all of the Relevant facts and evidence
- Not treating Parties equally
- Not providing an equal opportunity to present evidence and witnesses

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Bias

- Making a decision based on characteristics of the Parties, rather than the facts
 - May be based in sex stereotypes
- May be related to sex, including sexual orientation or gender identity
- May be based on other protected classes such as race, ethnicity, or disability
- Not evidence of bias, without more:
 - the outcome of a case
 - Title IX Coordinator filing the Complaint
 - prior professional experiences
 - Fact- and circumstance-specific, determined on a case-by-case basis

Conflicts of Interest

- Positional conflicts of interest
- Having a stake in the outcome of a matter
 - May include having a personal relationship with a Party
- Responsibility of institution to prevent and manage
 - Notification / disclosure requirement and process
 - Training
 - Cross training / back-ups
 - Reliance on outside personnel when appropriate

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Any
Questions?



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Clery Act and CSA Reporting

Vannesa Martinez-Cecchini

Vanessa Schenking

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Campus Security Authority CSA

The intent of including non-law enforcement personnel as CSAs is to acknowledge that some community members, particularly students, may be hesitant to report crimes to the police but may be more comfortable reporting to other campus-affiliated individuals.

Who are designated as CSAs?

- A campus police department or campus security department of an institution.
- Any individual or individuals who have responsibility for campus security but are not part of a campus police or security department. This includes people who monitor entrance to campus property, such as security guards.
- Any individual or organization specified in an institution's statement of campus security policy as an entity to which students and employees should report criminal offenses.
- An official of an institution who has significant responsibility for student and campus activities

Campus Security Authority CSA

CSAs have federally mandated responsibilities to:

- Report allegations of Clery Act crimes that are reported to them in their capacity as a CSA.
- Provide information to help assess if a timely warning or emergency notification to the campus community is warranted.
- Complete required training, often provided annually by their institution.
- It's important to note that CSAs are not responsible for investigating crimes or determining if a crime actually occurred. Their primary role is to report incidents promptly and accurately to the designated office, typically campus police or security

Basic Requirements of the Clery Act

- Post a daily crime log documenting all crimes in the area of responsibility or expanded patrol area.
- Publish an Annual Security Report (ASR) reflecting on the last 3 years of crime statistics. Clery Act crimes in the Clery Act defined area are documented. Additionally, publish a fire safety report reflecting fire incidents in campus residential locations and fire drills.
- Document the crime stats on the Department of Education website.
- Have certain crime prevention and awareness policies.
- Issue warnings and alerts for crimes, threats to public safety, and other hazards on campus.

Penalties for noncompliance

All universities must comply with Clery Act or they may:

- Receive fines of up to \$69,733 per violation (as of January 2024)
- Damage to institutional reputation
- Lose federal funding
- Be used as a cautionary tale for other institutions - publicly available information
- Have the institution's name and failure to comply provided to Congress by the Department of Education

Clery Crimes

Murder/Non-
Negligent
Manslaughter

Negligent
Manslaughter

Rape

Fondling

Incest

Statutory
Rape

Robbery

Aggravated
Assault

Burglary

Motor Vehicle
Theft

Arson

Stalking

Dating
Violence

Domestic
Violence

Hate Crimes

- **Hate Crimes:** A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

The following are
categories of bias, under
the Clery Act:

- Race
- Gender
- Gender Identity
- Religion
- Sexual Orientation
- Ethnicity
- National Origin
- Disability

***Criminal and Sex offenses plus larceny, simple assault, intimidation, and destruction/damage/vandalism of property.

Arrests and Referrals for Disciplinary Action



Weapons

Drugs

Liquor

Clery Geography Definitions



Public Property: Streets and sidewalks on campus



On Campus: On-campus locations



On-Campus Student Housing: Yale-owned buildings where our students live

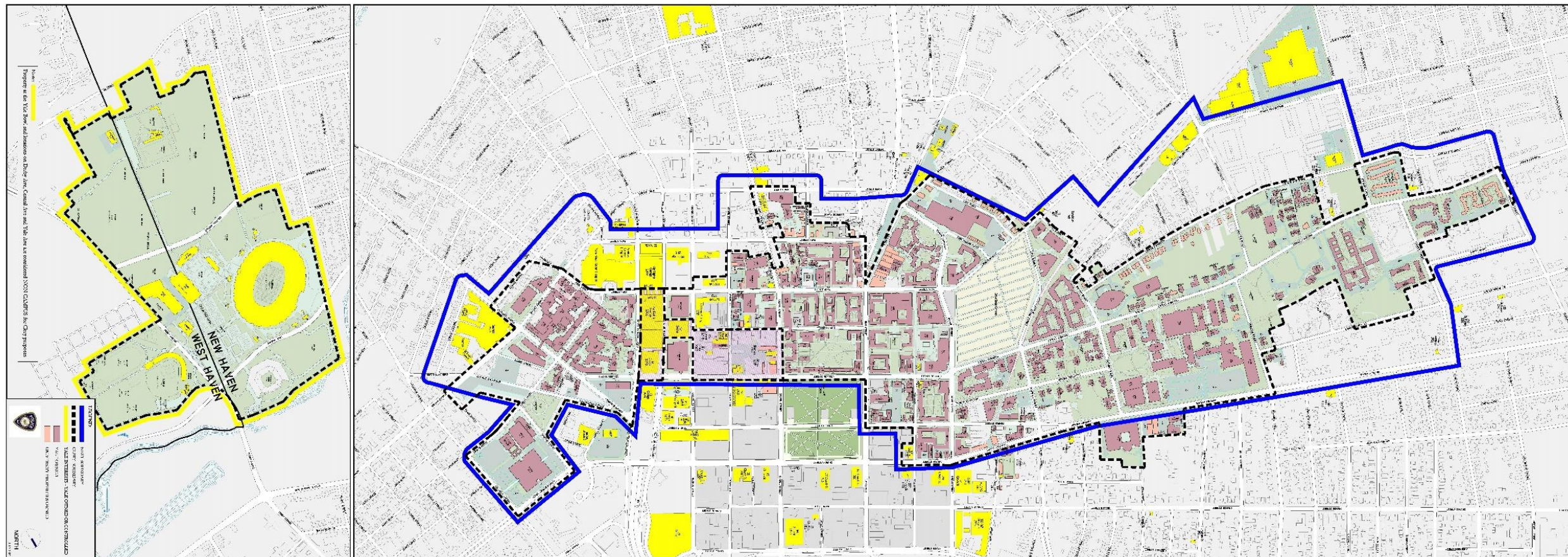


Non-Campus: Yale-owned or controlled property not within the campus borders. Include short-stay trips by teams, groups, and study abroad.

*Non-Campus does not mean not academic or not Yale property – just that it is not in the campus Clery footprint.

West Campus is just West Campus and included in the ASR.

Clery Geography Map



Timely Warnings and Emergency Notifications: Difference in Notification

	Timely Warning	Public Safety Advisory	Yale Alert (Emergency Notifications)
Scope	Clery crimes reported to YPD or CSAs (Ex. Robbery reported in our Clery geography)	Case by case basis. Crimes that are a concern to the Yale Community but do not meet Timely Warning qualifications.	Significant emergency or dangerous situation (Ex. active shooter, hurricane or bomb threat)
Triggered by	A Clery crime that has occurred that is an ongoing threat to campus security.	A crime that has occurred that is an ongoing threat to the Yale community.	Event that is currently occurring on or imminently threatening campus.
Where event occurs	Anywhere within Clery geography.	Within AOR.	Only on campus.
How soon to issue message	As soon as pertinent information is available.	As soon as pertinent information is available.	Immediately upon confirmation of situation.

How To Report: CSA Website

It's Your Yale

RECOGNITION · WORKDAY · NEWS · DIRECTORIES · YALELINKS

Q SEARCH

Work at Yale · Technology at Yale · Policies & Procedures · Research Support · Community

HOME > COMMUNITY > PUBLIC SAFETY > RESOURCES > CAMPUS SECURITY AUTHORITY

Campus Security Authority

If you have questions pertaining to the Campus Security Authority (CSA) reporting, please contact us via the [CSA Question form](#)

- [CSA Video](#)
- [CSA Video - Closed Captioned](#)
- [CSA Quick Reference Guide](#)
- [To complete the CSA Annual Report Form OR to report a crime](#)
- [CSA Training Information](#)
- [CSA Crime Definitions](#)
- [Sexual Misconduct Response Tips and Resources](#)

For questions or concerns, please email safe@yale.edu.

[Campus Security Authority | It's Your Yale](#)

CSA On Line Reporting

Enter the information.
Provide a brief description
of the incident.
What happened, when
did it happen,
where did it happen.
There is a link to crime
definitions.

CSA REQUIRED INFORMATION

CSA OR REPORTING PERSON *

DEPARTMENT *

E-MAIL ADDRESS *

TODAY'S DATE *

Sep 17 2024

Crime/Incident Information

If you believe this crime or incident that was reported to you but was NOT reported to the police complete this form. If more than one crime or incident was reported to you, you must fill out one of these forms for each reported crime or incident.

CSA NAME

PHONE NUMBER

(000) 000-0000

TYPE OF CRIME

- None -

For a definition of each crime category, please visit the [CSA Crime Definitions page](#).

PLEASE ENTER THE DATE INFORMATION BASED ON YOUR SELECTION BELOW *

☐ SINGLE DAY

☐ MULTIPLE DAYS

☐ UNKNOWN

DATE REPORTED TO CSA

Month Day Year

BRIEF DESCRIPTION OF EVENT *

LOCATION OF INCIDENT

Include Building Name or Address if known

DID THE CRIME OCCUR IN A BUILDING OR ON THE STREET? *

- ☐ BUILDING
- ☐ STREET
- ☐ UNKNOWN

DID THE CRIME OCCUR ON YALE OWNED, CONTROLLED OR LEASED PROPERTY? *

- ☐ YES
- ☐ NO
- ☐ UNKNOWN

DID THE CRIME OCCUR AT A UNIVERSITY SPONSORED ACTIVITY OR EVENT? *

- ☐ YES
- ☐ NO
- ☐ UNKNOWN

BIAS INFORMATION

If a hate (bias) related crime was reported to you, please fill out the above section and then complete the following information about the type of bias involved in the crime.

TYPE OF BIAS

- None -
Race
Ethnicity
National Origin|National Origin
Sexual Orientation
Religion
Gender
Gender Identity
Disability

- Report ALL CRIMES reported to you to the CSA website (not just Clery crimes)
- Early in the year you will receive an email requesting you to report all crimes reported to you that may not have been reported
- We also ask that if you did not have any crimes reported to you, to fill out the form with a NO CRIMES response

NO CRIMES REPORTED

If no crimes were reported to you between January and December of 2015, please check the box below.

CHECK IF ☐

APPLICABLE BY CHECKING THIS BOX, YOU ARE CONFIRMING NO CRIMES WERE REPORTED TO YOU DURING THE CALENDAR YEAR ENTERED BELOW.

Resources and Training

CSA Reporting Website - <https://your.yale.edu/community/public-safety/resources/campus-security-authority?app=yalesites>

- Go here for training materials and to report a crime

Contact Information

Vannesa Martinez-Cecchini – Senior Associate General Counsel

- vannesa.martinez@yale.edu

Vanessa Schenking – Compliance and Crime Analyst

- vanessa.schenking@yale.edu

Lisa Skelly-Byrnes – Director of Compliance and Crime Analysis

- lisa.skelly-byrnes@yale.edu

Title IX at Yale

Workshop on Title IX Reporting Responsibilities

Jason Killheffer
Senior Deputy Title IX Coordinator
Director of Title IX Programs

Erin Farley
Manager, Title IX Prevention, Education, and Outreach



Agenda

- Review sample slides for trainings on Title IX Reporting Responsibilities
- Small group discussions about Frequently Asked Questions
- Feedback and Q&A





Sample Slides for Trainings on Title IX Reporting Responsibilities

Why is this important?

- Yale is committed to creating and maintaining a community where sexual misconduct has no place
- Federal and state laws require us to provide individuals who disclose that they have been affected by sexual misconduct with information about their rights and options
- We want you to understand your Title IX reporting responsibilities and know how to access resources and assistance



Reflecting on Supportive Interactions

- Think about a time when you felt supported by someone.
- **What was the behavior/action that made you feel that way?**



What is Title IX?

Title IX is a federal civil rights law that prohibits discrimination based on sex in any education program or activity that receives federal financial assistance.



Policies & Definitions



Yale University Policy Against Discrimination and Harassment

- As defined in this policy, Yale prohibits Discrimination, Harassment, and Retaliation.
- These forms of conduct undermine Yale's mission and its commitment to diversity, equity, and belonging.

<https://your.yale.edu/policies-procedures/policies/9000-yale-university-policy-against-discrimination-and-harassment>

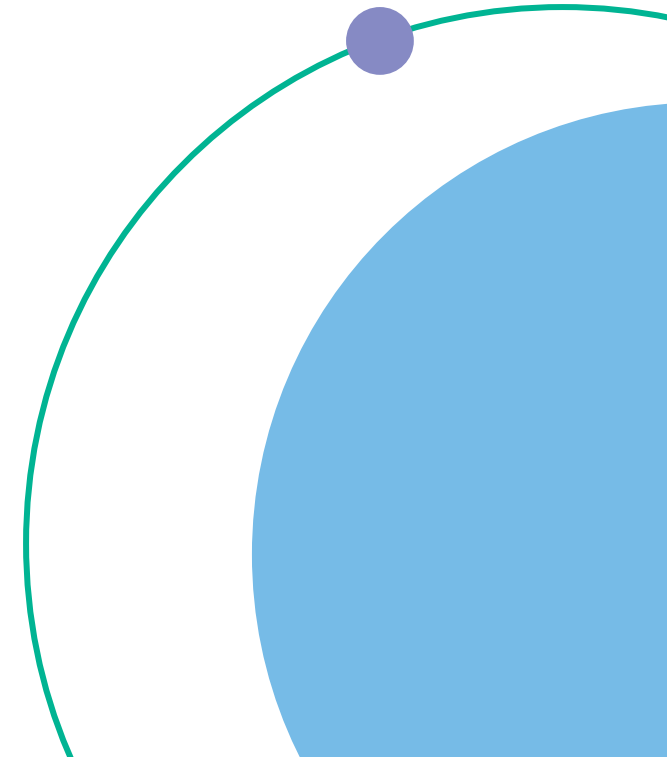


Yale's Sexual Misconduct Policies

Sexual Misconduct incorporates a range of behaviors, including:

- sexual assault
- sexual harassment
- intimate partner violence
- stalking
- voyeurism
- violations of the consensual relations policies
- and any other conduct of a sexual nature that is nonconsensual, or has the purpose or effect of threatening, intimidating, or coercing a person

titleix.yale.edu/policies-definitions/yale-sexual-misconduct-policies-and-related-definitions



Prohibited Sexual or Romantic Relationships

Yale has policies in place that prohibit sexual or romantic relationships between individuals in inherently unequal positions of authority. These relationships include:

- Teachers with any undergraduate student
- Teachers with students over whom they have or might reasonably expect to have direct pedagogical or supervisory responsibilities, regardless of whether the relationship is consensual
- Teachers with any student they directly supervise
- Staff with employees and trainees for whom they have or might reasonably expect to have supervisory or reporting responsibilities

Response & Support Resources



Deputy Title IX Coordinators

Are available to consult with members of the community about concerns or questions related to sex discrimination, including sexual misconduct

They also coordinate support for students who are pregnant or experiencing pregnancy-related conditions

Deputy Title IX Coordinator for Yale College



Stephanie Ranks

stephanie.ranks@yale.edu

203.530.6803

Examples of concerns that might be shared with a Deputy Title IX Coordinator:

- Unwelcome comments, jokes, or gestures related to someone's sex, gender, or sexual orientation
- Unwanted emails, text messages, voicemails, or social media messages
- Repeated misgendering of transgender and gender diverse individuals
- Questions about accommodation options for pregnant or breastfeeding students
- Unwelcome sexual advances
- An environment that is hostile towards individuals of a certain gender or sexual orientation

Someone may want to contact a Deputy Title IX Coordinator to:



Report a concern related to sex discrimination, including sexual misconduct



Have a conversation about resources, support, protective measures, and resolution pathways



Access supportive measures, such as academic, housing, or workplace modifications

How to report a concern



- You can reach out directly to any Deputy Title IX Coordinator by phone or email
 - Contact information for Deputy Title IX Coordinators can be found on the Title IX website: **titleix.yale.edu**
- Concerns can also be reported to the Title IX Office by filling out the **[online reporting form](#)** located on the Title IX website

SHARE Center



- Appointments weekdays 9 am to 5 pm (Zoom or in-person)
- 24/7 on-call service at **203-432-2000** for time-sensitive concerns
- Information, Advocacy, and Referrals
 - Coordination with/referral to campus and community resources
 - Facilitate accompaniments to medical services, criminal and civil court, and meetings with other resources
- Conduct Awareness Training
- Support (Students)
 - One-on-one supportive counseling
 - Short-term trauma-focused therapy
 - Support groups
 - Trauma-Informed Yoga Program for Survivors

Responding Supportively to Disclosures



Responding to Disclosures Supportively

If someone disclosed to you that they experienced sexual misconduct, how might you respond supportively?





Responding with Support

- Listen- Don't rush to provide solutions or press for details
- Be non-judgmental
- Make sure they are safe
- Don't make assumptions- Let them name their experience and explain how they feel
- Maintain their privacy; share information only on a need-to-know basis with appropriate resources
- Offer to share information about resources



Useful Phrases

- *Thank you for telling me.*
- *I'm so glad you decided to reach out to someone for support.*
- *I'm here to listen and support you in any way that I can.*
- *What can I do to help?*

You can also read more detailed guidance at
sharecenter.yale.edu/support-qa

Title IX Reporting Responsibilities

The background of the slide is a blue-tinted aerial photograph of a city. On the left side, there is a large, ornate Gothic-style cathedral with multiple spires and a prominent central tower. To the right, a tall, modern skyscraper with a grid-like facade is visible. The city is densely packed with various buildings, and in the background, a large, forested hill rises above the urban landscape. The overall scene is captured in a monochromatic blue color scheme.

Individuals with Title IX Reporting Responsibilities

Certain employees and other members of the community are required to report any incident or behavior that might fall under Yale's definition of sexual misconduct to a Deputy Title IX Coordinator.

Examples of those with reporting responsibilities include:

- Individuals with supervisory, advisory, or educational responsibility for Yale community members
- Faculty members
- Instructors
- Lecturers
- Teaching fellows
- Coaches
- Academic administrators



What is the purpose of Title IX reporting responsibilities?

- Yale has designated certain Yale community members as having Title IX reporting responsibilities so that individuals affected by sexual misconduct receive timely and accurate information about resources and options available to them.
- This reporting also helps the University track and respond to trends and areas of concern.



Responding to a disclosure of sexual misconduct



Care

Care for the person in front of you



Communicate

Communicate that you have a responsibility to contact Title IX for support



Connect

Offer to connect them with confidential resources like SHARE



Contact

Contact a Deputy Title IX Coordinator

Sample Response to a Disclosure

I appreciate you telling me and want to talk about how I can support you. I'm also going to reach out to a Deputy Title IX Coordinator. All that means is that they will follow up to share information about support options and resources available to you. It's completely up to you whether you'd like to meet with them or not.

Contact a Deputy Title IX Coordinator



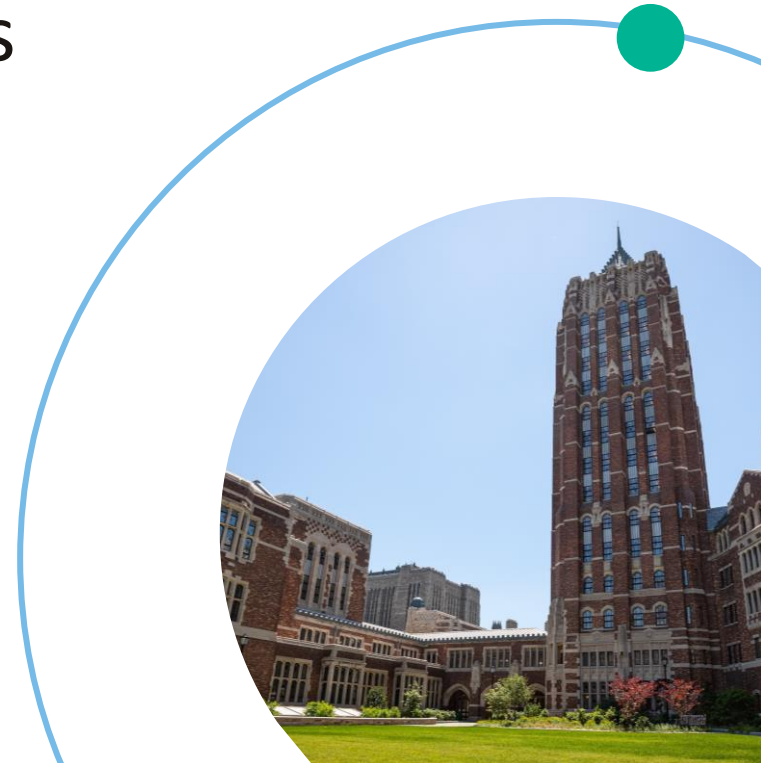
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- Concerns can also be reported to the Title IX Office by filling out the **[online reporting form](#)** located on the Title IX website

What details do I need to provide?

- Generally, you should share the relevant information that has been shared with you. Do not press for details beyond what is shared.
- If you have any concerns about sharing certain aspects of the information, the Deputy Title IX Coordinator will explore those concerns with you.

Important Note

- **Do not investigate** or press for details beyond what is shared*
- Your role is to connect the individual to a Deputy Title IX Coordinator as seamlessly as possible



What happens after information is shared with a Deputy Title IX Coordinator?

- A Deputy Title IX Coordinator will reach out to the individual and offer to meet to discuss:
 - Resources
 - Supportive Measures
 - Resolution Pathways
- Coordinators aim to give individuals as much control as possible over how they want to proceed. While individuals are encouraged to talk with a Deputy Title IX Coordinator or another resource about options and support available, it is up to them whether they'd like to or not.



Don't forget to take care of yourself too!

- Be aware of your own feelings
- Know and respect your own limits
- Reach out for support

Practice Scenario (for Law School Community Leaders)

A 1L shares with you that they're uncomfortable being around another student in their class. They share that the other student has been texting them frequently and keeps asking them on dates even after they've declined. The student isn't sure what to do and turns to you for support.

Discussion Questions:

1. What are the potential impacts of what's happening in this scenario?
2. Do your Title IX reporting responsibilities come into play in this scenario? Why or why not?
3. How might you respond in this situation?

Practice Scenario (for McDougal Directors)

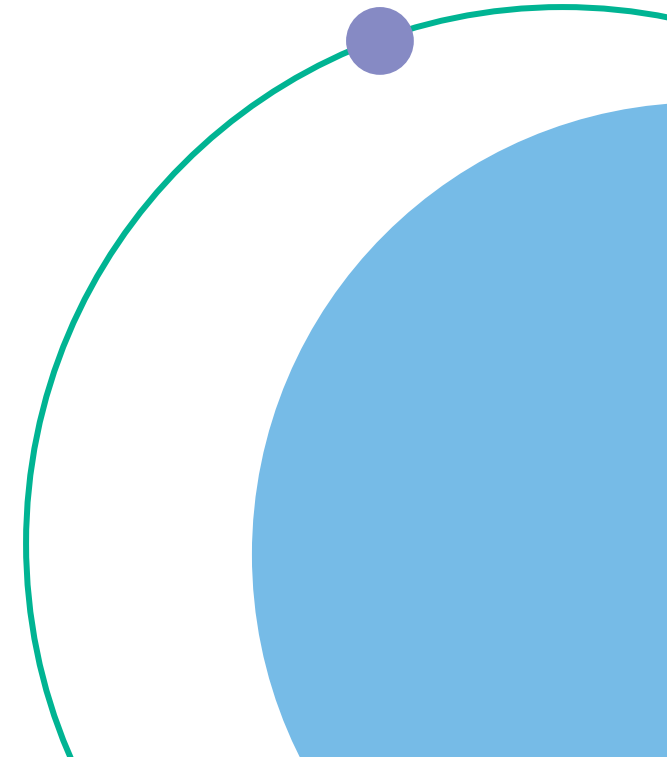
Alex, a McDougal Fellow, tells you about a situation that is making them feel uncomfortable while serving in their role. Alex shares that another student, Jordan, frequently attends program sessions that Alex runs. Jordan often lingers around after these events and initiates conversations with Alex. On multiple occasions, Jordan has asked Alex out on dates and attempted to exchange phone numbers. Alex has declined these advances, but the behavior has continued. Alex asks for your advice on what to do.

Discussion Questions:

1. What are the potential impacts of what's happening in this scenario?
2. Do your Title IX reporting responsibilities come into play in this scenario? Why or why not?
3. How might you respond in this situation?

Takeaways

- Listen, respond supportively, and check-in about safety
- Offer connection to the SHARE Center
- Explain your Title IX reporting responsibilities and what that means
- Reach out to a Deputy Title IX Coordinator
- Respect privacy
- Don't investigate



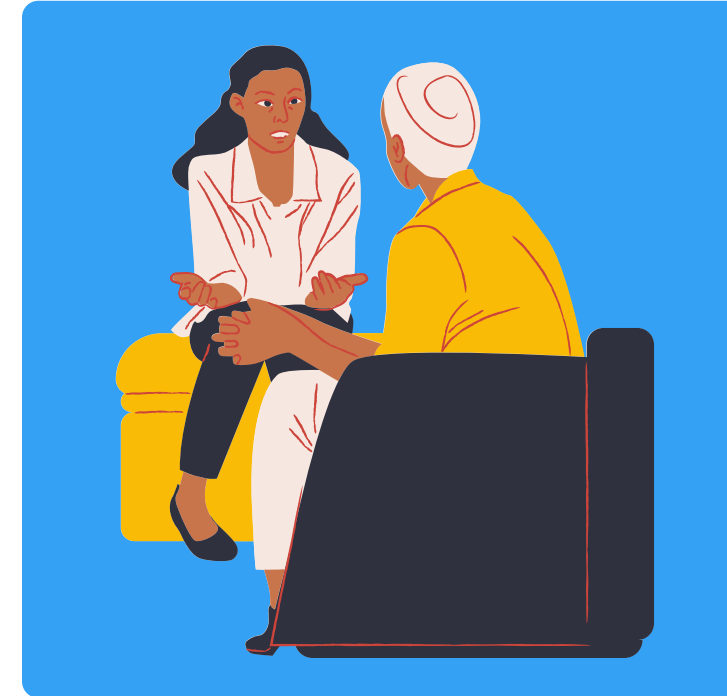


Small Group Discussions about Frequently Asked Questions

Thank you!

Questions? Feedback?

Providing Support as a Title IX Coordinator: Taking a Trauma-Informed Approach



Anna Osman, LCSW – Assistant Director, SHARE
Jennifer Czincz, PhD – Director, SHARE

Sexual misconduct & trauma

From the literature:

- 81% of individuals who experience sexual assault had significant symptoms of PTSD one week after the assault.
 - One month afterward – the first point in time that PTSD can be diagnosed – 75% met criteria for the disorder.
- 37% of people who are stalked meet the diagnostic criteria for PTSD
- 31% to 84.4% of those who experience IPV exhibit PTSD symptoms.

Dworkin, E. R., Jaffe, A. E., Bedard-Gilligan, M., & Fitzpatrick, S. (2023)

Fernández-Fillol C, Pitsiakou C, Perez-Garcia M, Teva I, Hidalgo-Ruzzante N. (2021)

What does it mean to be *trauma-informed*?

The Four Rs

"A program, organization, or system that is trauma-informed **realizes** the widespread impact of trauma and understands potential paths for recovery; **recognizes** the signs and symptoms of trauma in clients, families, staff, and others involved with the system; and **responds** by fully integrating knowledge about trauma into policies, procedures, and practices, and seeks to actively **resist re-traumatization**." – SAMHSA



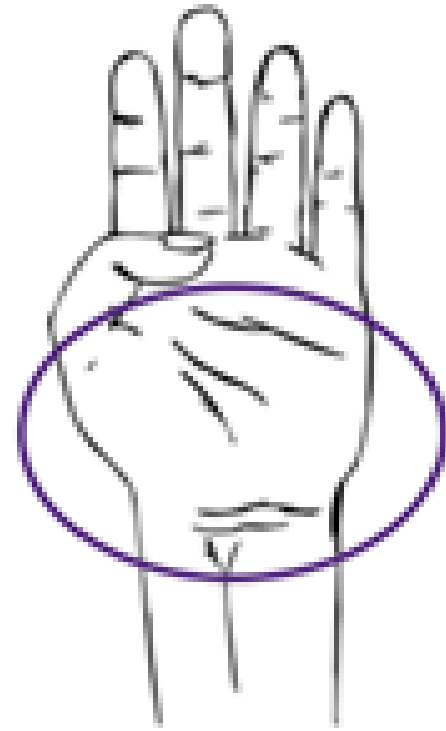
SAMHSA
Substance Abuse and Mental Health
Services Administration

What is *trauma*?

“Psychological trauma is an affliction of the powerless... Traumatic events **overwhelm** the ordinary systems of care that give people a sense of control, connection, and meaning... Unlike commonplace misfortunes, traumatic events generally involve threats to life or bodily integrity, or a close personal encounter with violence and death. They confront human beings with the extremities of helplessness and terror, and evoke the responses of catastrophe.” – Judith Herman

too much
too soon
too fast

What happens *during* a traumatic experience?

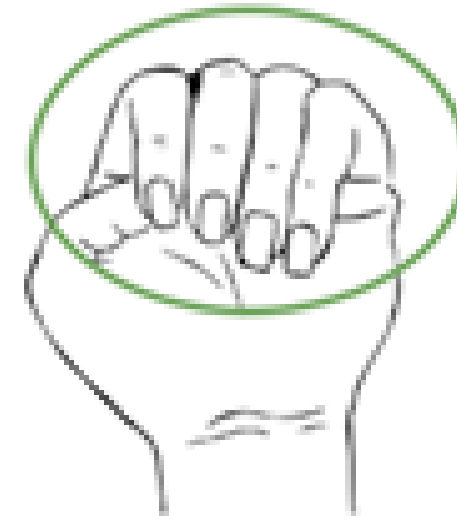


BRAIN STEM
Controls heart,
Lungs, etc.



LIMBIC SYSTEM
The fear center

Elt Safety
Attachment
Regulation



CORTEX-
Thinking Brain

This can also happen when we are triggered by reminders of a past traumatic experience in the present.

Impacts of trauma

1	Avoidance	avoiding reminders of traumatic experience; dissociation
2	Intrusion	reliving of traumatic experience through flashbacks, nightmares, thoughts
3	Affect/cognitive	feelings of disconnection from self and others; negative mood; changes in beliefs
4	Arousal/reactivity	difficulty sleeping and concentrating; irritability; jumpiness

Depending on the severity and duration of these symptoms, individuals may meet criteria for a diagnosis of PTSD (post-traumatic stress disorder)

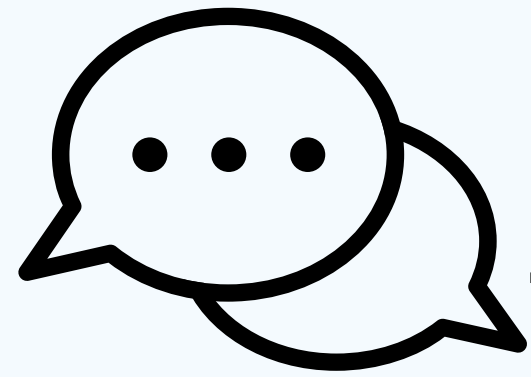
Every trauma response is unique.

Responses may be impacted by:

- Nature of the traumatic event
- Intersecting identities
- Trauma history over lifetime
- Access to resources
- Social support available
- Age/stage of development
- A variety of other individual, interpersonal, and environmental factors

"Trauma is not what happens to you; Trauma is what happens inside you as a result of what happens to you." – Dr. Gabor Mate





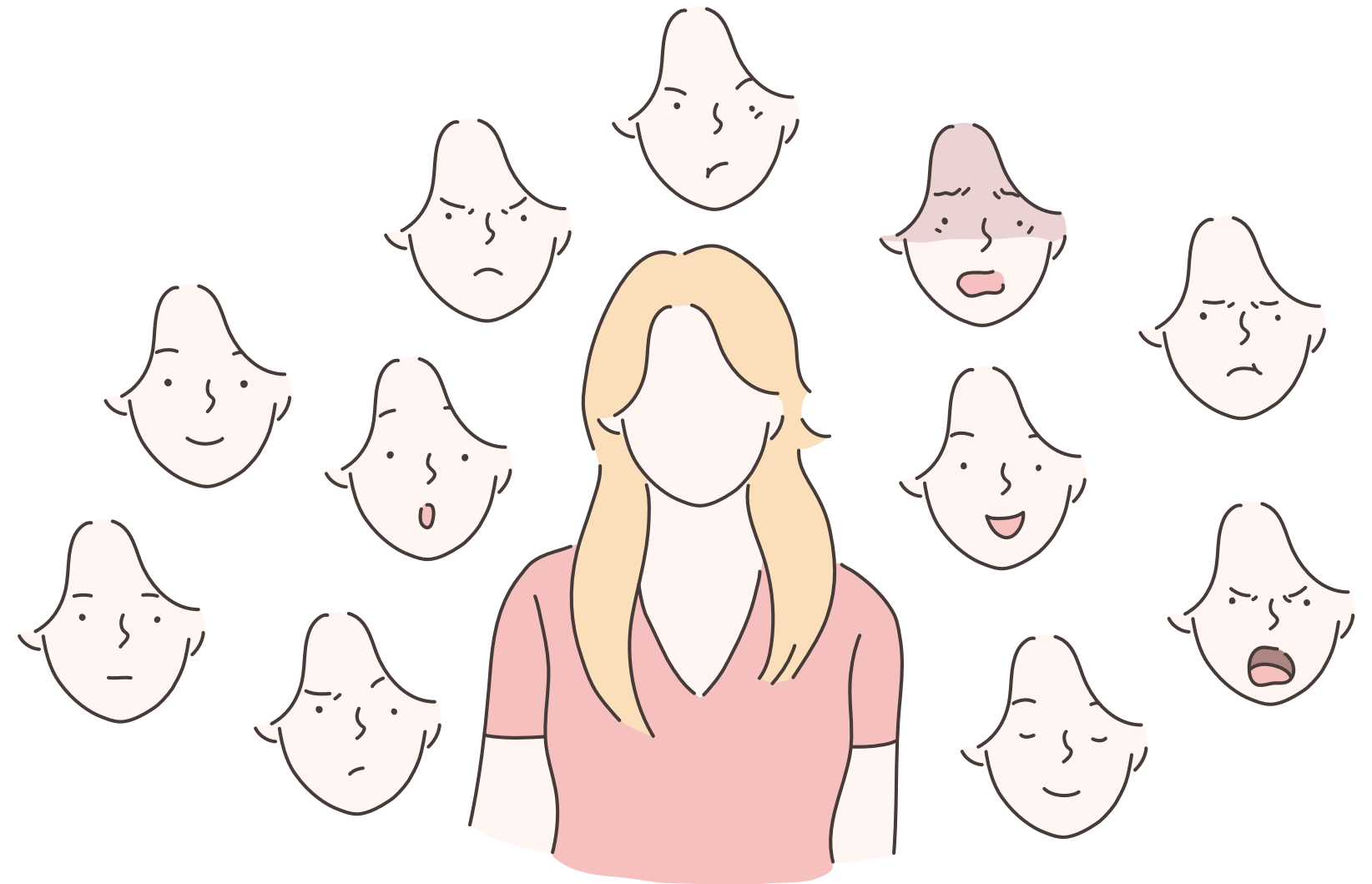
DISCUSSION QUESTIONS:

- What behaviors or reactions have you observed in your work with community members who have experienced trauma?
- Have folks had responses that were unexpected or felt confusing to you?

Common presentations

Folks may show up as:

- Anxious, fearful
- Sad, tearful
- Overwhelmed
- Angry
- Numb, shut down
- Guarded, untrusting
- Confused, disoriented
- Unaffected ("business as usual")



Post-traumatic responses that may seem confusing

Misplaced blame/responsibility

Minimizing

Excusing others' behaviors

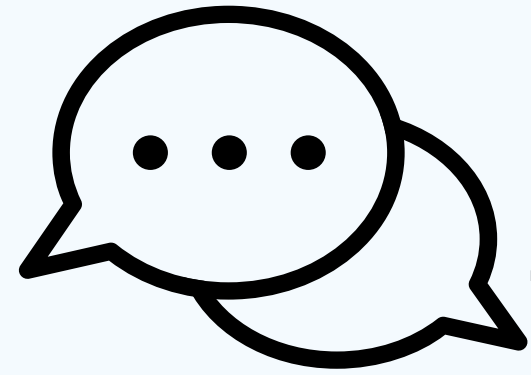
Treating coerced or forced encounters as if they were a choice

Taking a long time—years, sometimes—to recognize violence that is readily apparent to third party listeners

Maintaining unhealthy relationships

Normalizing

Ambivalence about reporting, engaging with resources, etc.



DISCUSSION QUESTIONS:

- In your experience, what has seemed to make folks feel most supported when disclosing to you?
- What advice would you give to someone seeking guidance on how to respond to disclosures?

Best practices

DO:



- Listen first
- Let them lead
- Be nonjudgmental
- Explore needs (safety, academic/other supports)
- Explain why when asking sensitive questions
- Offer resources (& warm handoffs)
- Ask permission
- Give choices

DO NOT:



- Make assumptions
 - Details of misconduct
 - Their reaction
 - If/how/when to seek support, report, etc.
- Label their experience
- Ask unnecessary questions
- Share your own experiences
- Give your opinion on what they "should do" or what you "would do"

Useful phrases for coordinators

"Thank you for sharing this with me. I know it is not easy to talk about."

"I'm here to support you no matter what you decide to do **if anything.**"

"We can discuss your options together **if you'd like.** Whether or not you pursue any of those options will be up to you."

"Would you like me to tell you about some resources that might be helpful to you?"

"You can share with me as much or as little as you would like/feel comfortable."

"This does not have to be a one-time conversation."

**What language has worked well in
your experience as a Title IX
Coordinator?**



Active listening: Nonverbal communication

- Eye contact
- Nodding
- Facial expressions – display appropriate emotions for what the person is currently talking about / be mindful not to convey judgment
- Body posture – be open and relaxed, lean in slightly
- Tone of voice
- Avoid distractions/interruptions

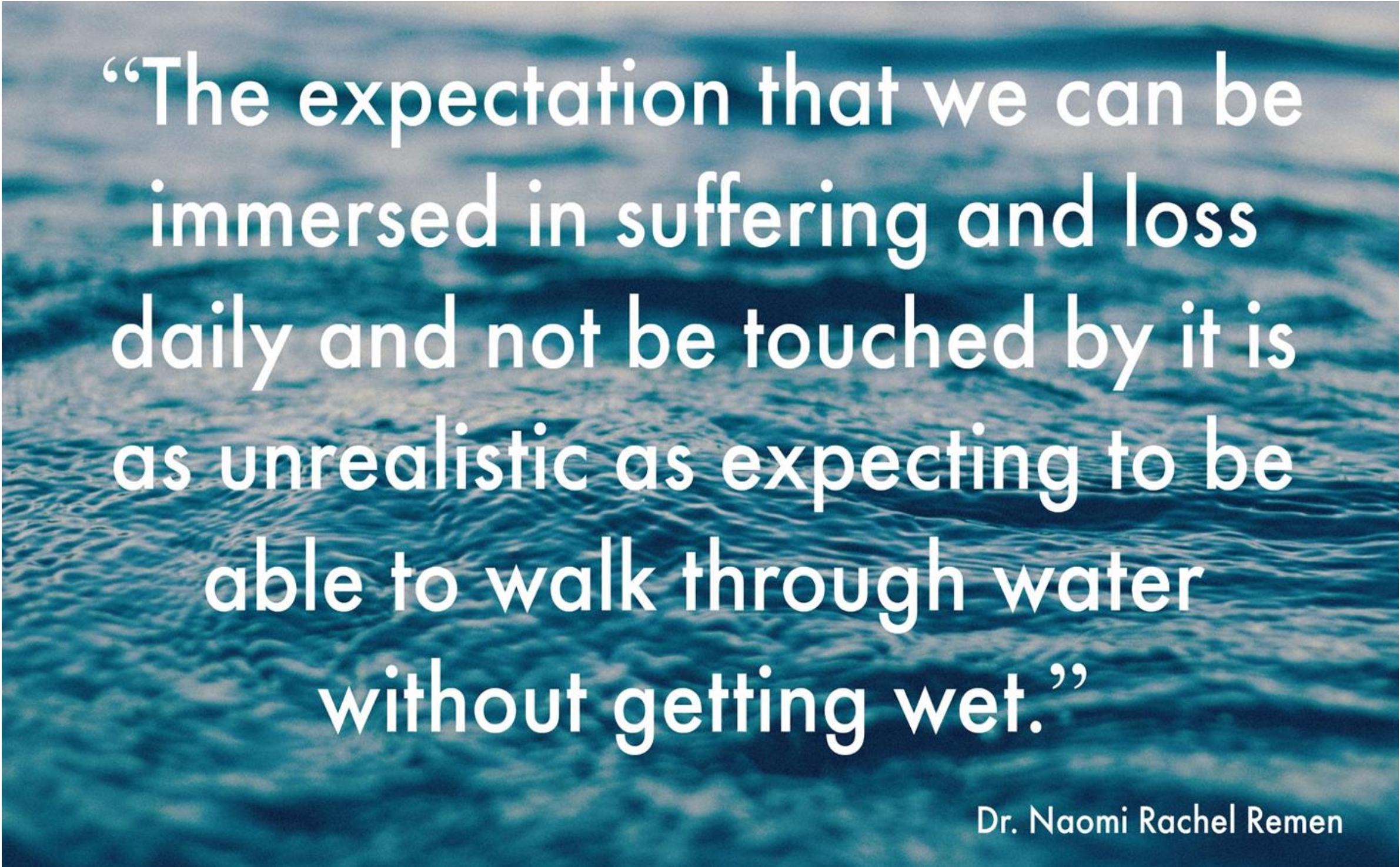


Active listening: Verbal following

- Let the person determine the course of the conversation.
- Try your best not to interrupt or change the subject.
- Resist the temptation to give advice or share your own feelings or experiences.
- Use paraphrasing.
- It sounds like...
- I think I hear you saying...
- Be mindful of open versus closed questions.



Being trauma-informed *with yourself*



“The expectation that we can be immersed in suffering and loss daily and not be touched by it is as unrealistic as expecting to be able to walk through water without getting wet.”

Dr. Naomi Rachel Remen

Considering vicarious trauma

WHAT?

Vicarious trauma is an ongoing process of change over time that results from witnessing or hearing about other people's suffering and need.

WHO?

If you are regularly hearing about another person's trauma, then you are at risk of developing vicarious trauma symptoms.

HOW?

When you identify with the pain of people who have endured terrible things, you bring their grief, fear, anger, and despair into your own awareness and experience. Your commitment and sense of responsibility can lead to high expectations and eventually contribute to your feeling burdened, overwhelmed, and perhaps hopeless.

- It may feel overwhelming to hear about an intense trauma so personal reactions are delayed as you focus on the task at hand.
- Listening to traumatic material can also trigger memories of your own previous traumas.
- Vicarious trauma is similar to direct trauma. It carries many of the same symptoms and can be treated in many of the same ways.

Impacts of VT

RELATIONAL:

- Expecting the worst of others,
- becoming judgmental,
- relationship problems,
- loss of friends

PHYSICAL:

- Feeling on edge,
- difficulty sleeping,
- feeling tired,
- getting sick

EMOTIONAL:

- Feeling sad or anxious, angry, irritable, lonely
- Feeling unsupported, unsafe

COGNITIVE:

- Difficulty concentrating or making decisions,
- memory problems,
- disturbing imagery,
- nightmares,
- “zoning out”

BEHAVIORAL:

- Social withdrawal,
- drinking or smoking (more),
- changes in eating patterns,
- overprotectiveness

SPIRITUAL:

- Cynicism, discouragement,
- loss of faith,
- an attitude of “why bother”

Addressing VT with self care

PHYSICAL & BEHAVIORAL:

Exercise, sleep 8–10 hours each night, eat regular healthy snacks and meals (reduce quantity, increase quality), take necessary medications, limit alcohol, drugs, and smoking, drink water, shower to “wash the day away,” follow a routine, balance priorities

EMOTIONAL & RELATIONAL:

Seek support, journal, paint, laugh, watch movies, avoid news/violent TV shows, read books, listen to music

COGNITIVE:

Focus on positive thoughts, affirm your strengths, do breathing and visualization exercises, remind yourself that this is temporary, stay in the present moment

SPIRITUAL:

Participate in a community that you value, pray/meditate/do readings, connect to the outdoors, sing



PRACTICE SCENARIO:

Jesse emails to request an appointment with you in your capacity as a Title IX coordinator. They don't provide any details but express that it is very important that they speak to someone as soon as possible, so you schedule a time for them to come to your office that afternoon at 3pm.

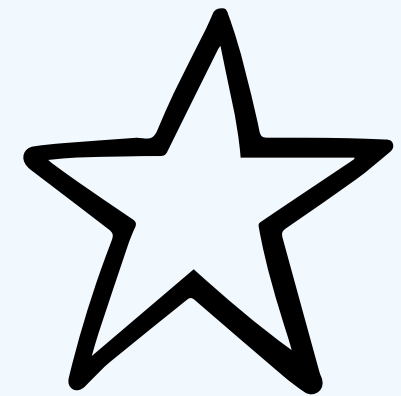
At 3:30, Jesse has still not arrived for their appointment. You send a follow up email checking in, but get no response.

The next day, Jesse comes by your office unannounced. You only have 15 minutes before you need to leave for a meeting across campus.



QUESTIONS FOR REFLECTION:

- How might you be feeling internally in this moment?
- What would you prioritize in responding to Jesse?
 - What information would you be trying to gather?
 - What resources might you want to make them aware of?
- How would you balance providing support while setting the boundary that you have limited time to connect right now?
- How might you and Jesse problem-solve about making future appointments most accessible to them?
- What aspects of Jesse's presentation might indicate to you that they have experienced trauma?



INTENTION-SETTING:

What is one way you can commit to incorporating a trauma-informed approach into your work?

