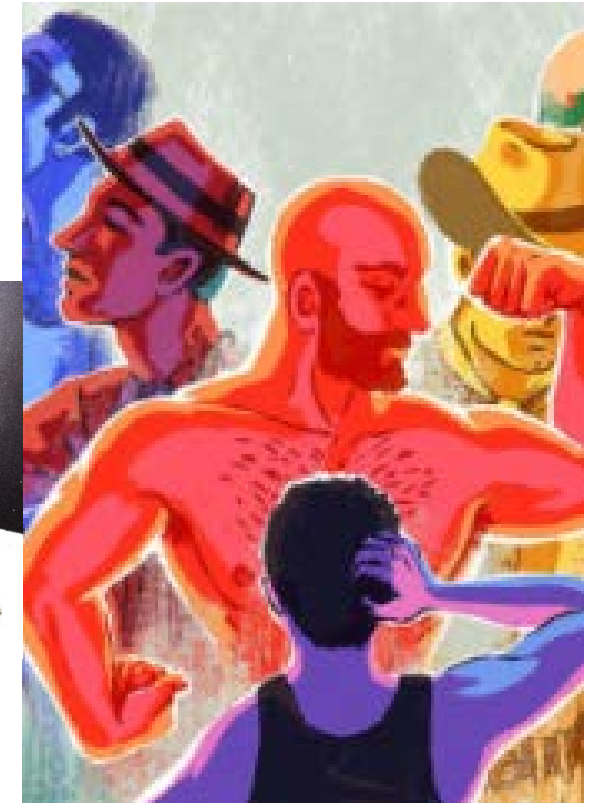# ACCUSATIONS TO TRANSFORMATIONS? SUPPORTING RESPONDENTS THROUGH GROWTH, COMPASSION, AND ACCOUNTABILITY

DR. SAED D. HILL, PH.D.
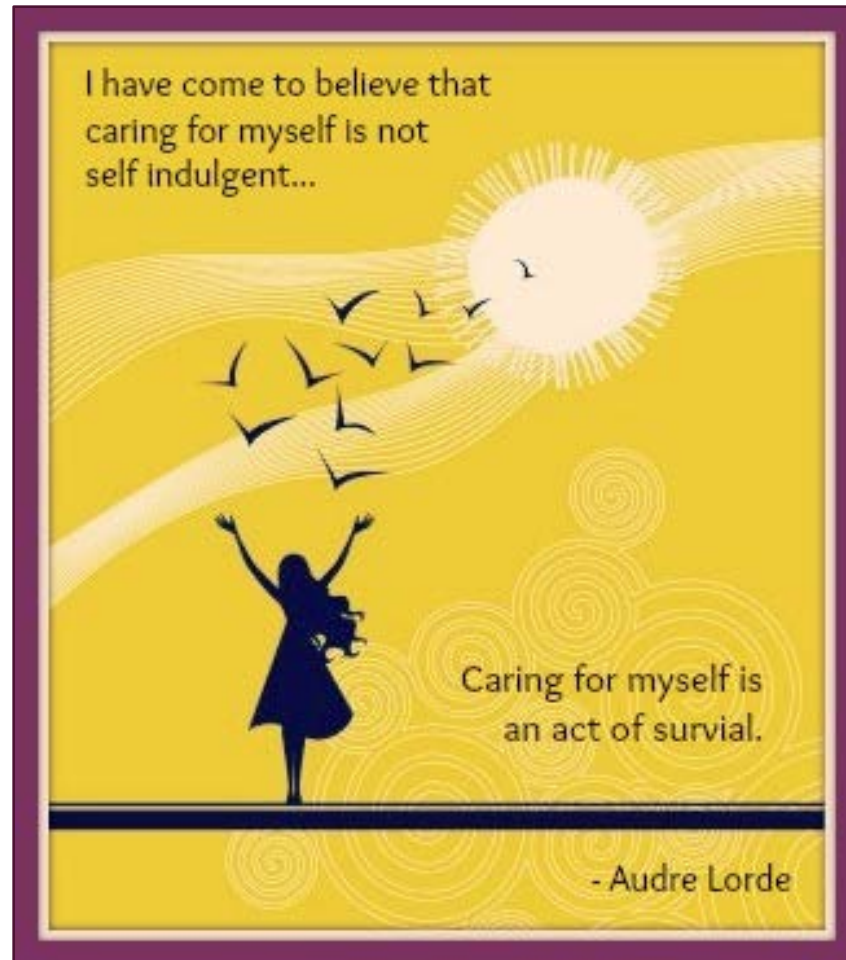### COUNSELING PSYCHOLOGIST / CONSULTANT

DR. SAED D. HILL, PH.D. (HE/HIM)

WELCOME

I have come to believe that caring for myself is not self indulgent...

Caring for myself is an act of survial.

- Audre Lorde

SOME GENERAL FRAMEWORKS/EXPECTATIONS

- Desire for this to be conversational and participatory

- Make space for different experiences

- Recognize that there are people with various identities (i.e. race, sexual orientation, ability, class, etc.) "in the room"

- Compassion

- Self-Care

- Framework naming power, privilege, and oppression

  - Systems of oppression are real and we live in a society that operates within hierarchies

GENERAL WHY ARE WE HERE'S?

- Connection, reflection, action

- Learn about ourselves in relation to harm and accountability

- Helping to guide individuals in building healthier relationships and community

- Examine connection between "restrictive masculinit(ies)" and harm

- Promote a culture of care

TERMS TO BE FAMILIAR WITH

- ***Intersectionality**
  - The study of the interconnected nature of oppression such as race, class, gender and sexual orientation

- ***Masculinity**
  - Masculinity refers to the behaviors, social roles, and relations traditionally applied to male-identified individuals within a given society as well as the meanings attributed to them. It is a socially constructed concept that can be used to describe what a "man" should be or how "he" should act

- ***Expansive Masculinity**
  - A broad and inclusive understanding of masculinit(ies) that allows individuals to express a wide range of emotions, behaviors, and characteristics traditionally associated with those who identify as men or masculine. Unlike more "toxic" or "restrictive" forms of masculinity, which often emphasize rigid gender norms and discourage vulnerability, expansive masculinity encourages people to embrace qualities such as empathy, emotional intelligence, collaboration, and a diverse array of interests and expressions

- ***Restrictive Masculinity**
  - Restrictive masculinity is an exclusionary form of masculinity that offers a narrow definition of what it means to be masculine. This masculinity restricts what is acceptable in terms of masculine appearance, behaviors, thoughts, and attitudes, and often pressures masculine people to display behaviors consistent with "traditional" forms of masculinity or risk being ostracized from masculine spaces and discussions. Often thought of how a "real man" thinks, looks, feels, and acts

MORE SPECIFIC GOALS FOR THIS GROUP

- Understand differences between stress and trauma

- Recognize how stress/crisis may impact the body and brain, and an individual's involvement in the Title IX process

- Identify ways to reduce stress of respondent and potential re-traumatization of "the process"

"They want to be led…."

The Masculinity Compass

1ST - A GENERAL STATEMENT ABOUT MEN AND BOYS

"THE MAN BOX"

ACT LIKE A MAN BOX

MEN ARE

Bread Winners

Violent

Mean

Bullies

Tough

Angry

Active

Strong

Successful

In Control of Women

FEELINGS

Confused

Angry

Scared

Ashamed

Alone

Stupid

Powerless

Vulnerable

Revenge

Hopeless

Worthless

MEN

Have no emotions

Stand up for themselves

Yell at people

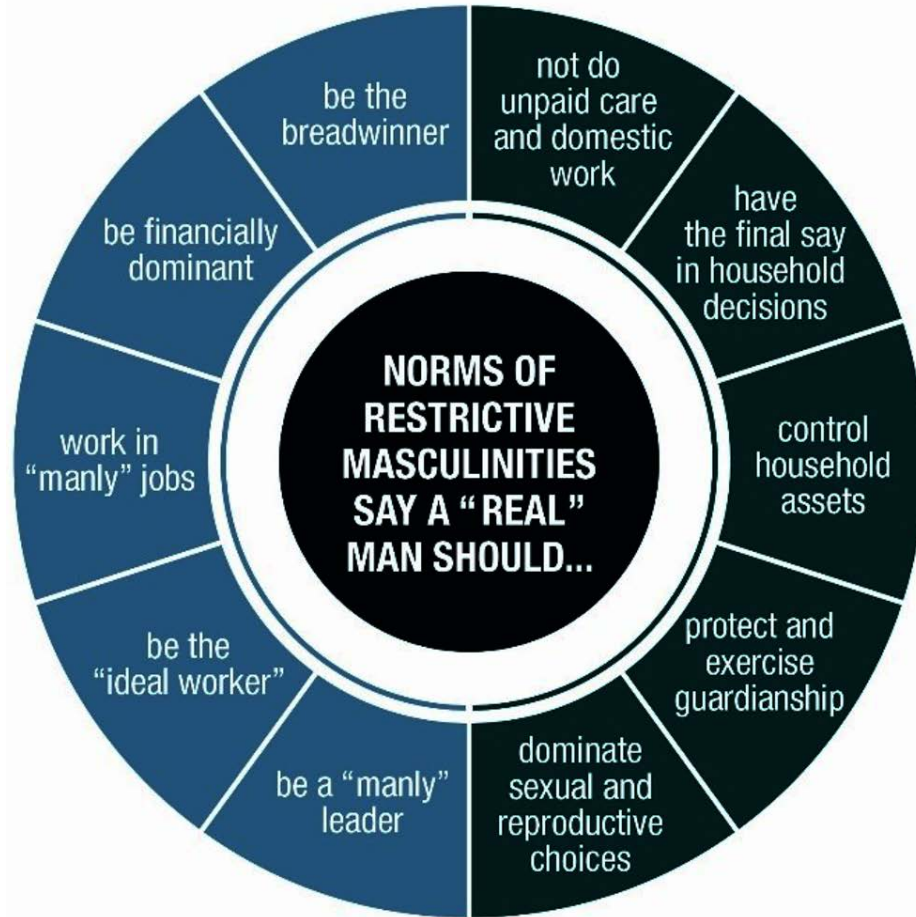Can take it

Don't make mistakes

Don't cry

Take charge

Push people around

Know about sex

Don't back down

Take care of people

ECONOMIC AND POLITICAL SPHERES

PRIVATE SPHERE

NORMS OF RESTRICTIVE MASCULINITIES SAY A "REAL" MAN SHOULD...

- be the breadwinner
- be financially dominant
- work in "manly" jobs
- be the "ideal worker"
- be a "manly" leader
- not do unpaid care and domestic work
- have the final say in household decisions
- control household assets
- protect and exercise guardianship
- dominate sexual and reproductive choices

MASCULINITY = DOMINANCE? CONTROL? POWER?
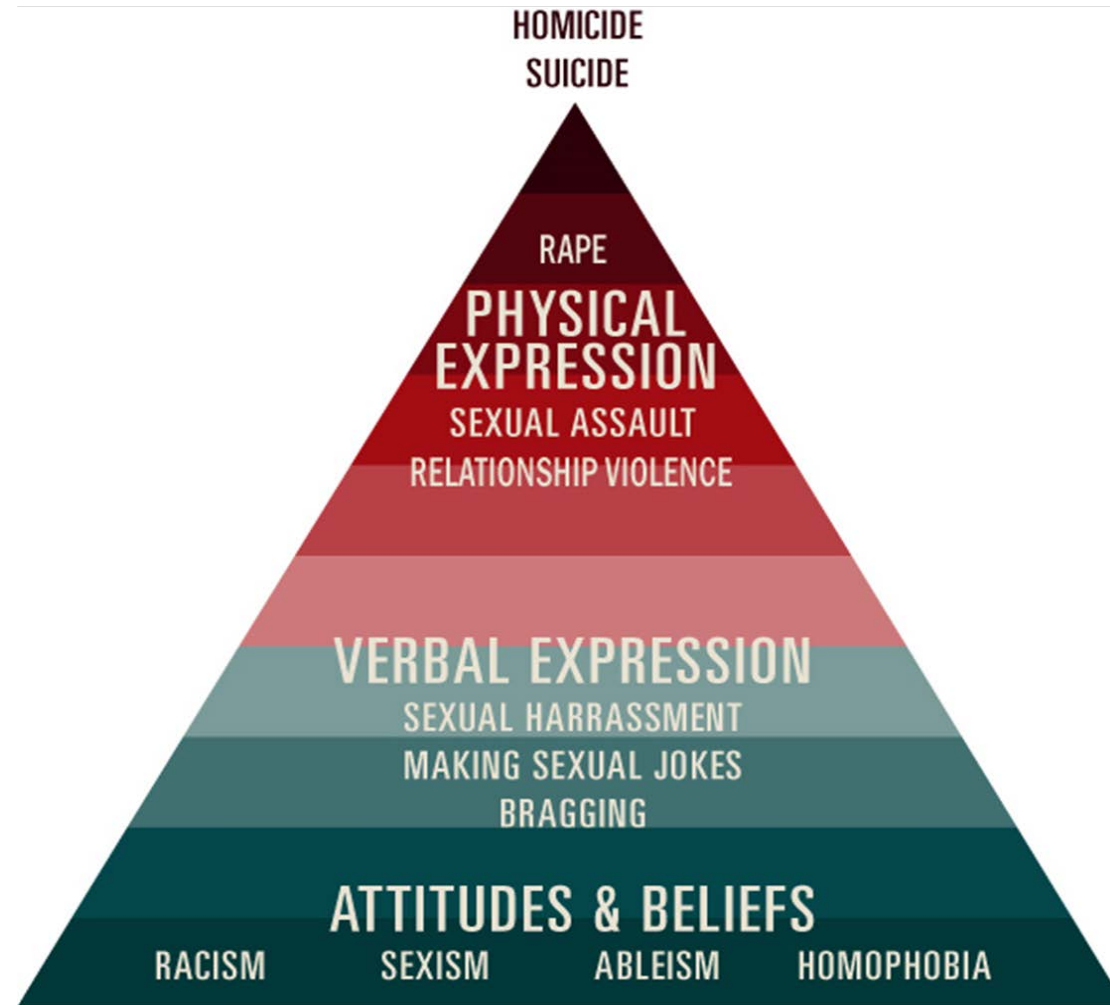

*Even when it hurts the
dominating person

THE EFFECTS OF THE "BOX"

- Depression

- Anxiety

- Volatility

- Sexual violence

- Hyper-aggression

- Escalation

- Bullying/entrapment of women/those with less perceived "power"


Alexa, turn my feelings off

Pyramid of Violence

MASCULINITY, GENDER-BASED VIOLENCE, & BYSTANDER INTERVENTION

The Social–Ecological Model: A Framework for Prevention

CDC's goal is to stop violence before it begins. Prevention requires understanding the factors that influence violence. CDC uses a four-level social-ecological model to better understand violence and the effect of potential prevention strategies.

- Individual
- Relationship
- Community
- Societal
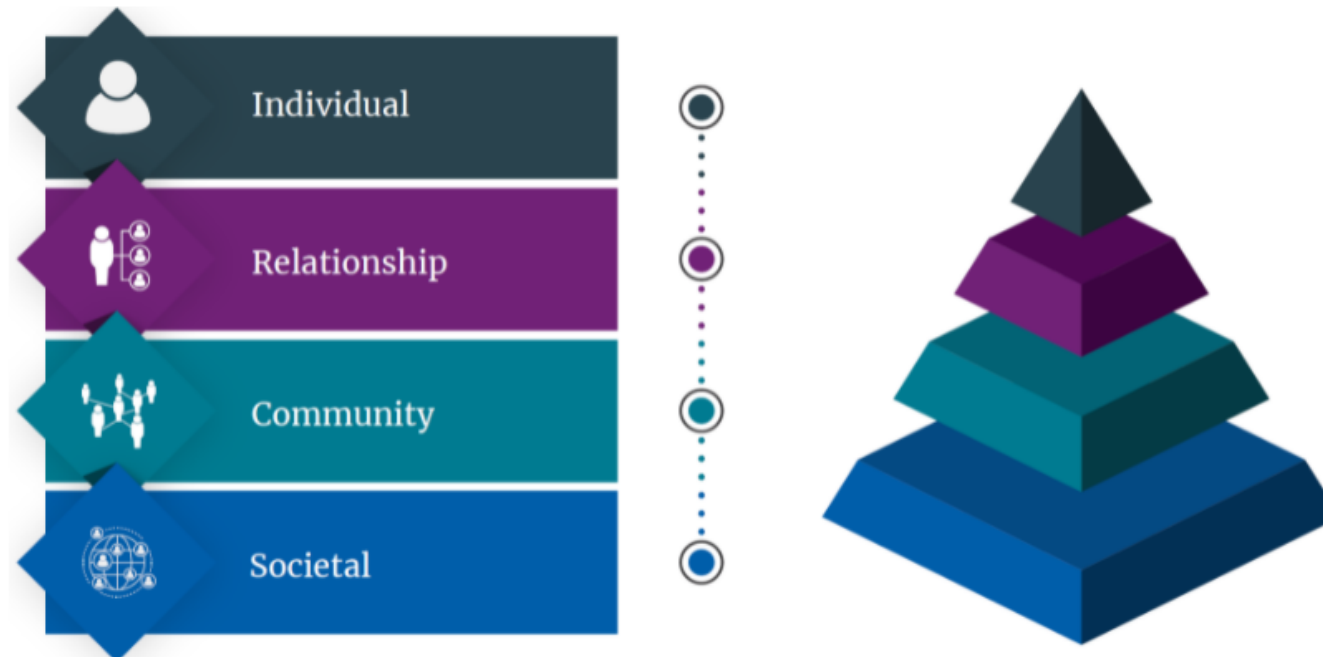
CONSENSUS

- There is large consensus across diplomats, policymakers, and advocates that working on masculinities yields great potential for a transformative approach to violence prevention and global peacebuilding

CONTRIBUTIONS OF PEER/SOCIAL NORMS

Men are very much informed by the behaviors of their peers. Desire to prove masculinity to peers can be a strong motivator; Masculinity as a performance

It's important that we intentionally name our feelings, thoughts, & commitments around masculinity work

DESIGN CONSIDERATIONS FOR GROUP PROGRAMMING

Design Elements

(1) sustained, intimate engagement in small groups,

(2) explicit attention to process and content,

(3) critical examination of social justice issues through a combination of structured activities and dialogue

Phases of Dialogue

(i) build relationships and guidelines for dialogue,

(ii) clarify expectations, share stories, and gain insight into dynamics of masculine-identity development

(iii) explore issues in an age-appropriate way to address the interpersonal, institutional, and cultural contexts of masculinity and its connection to violence

(iv) End by action planning and alliance building

CURRICULUM – BRIEF OVERVIEW

Week 1: Intros, Expectations, Ground Rules, & Exploring the Self

Week 2: Personal and Family Values as a Navigation Tool

Week 3: Healthy Communication & Emotional Intelligence
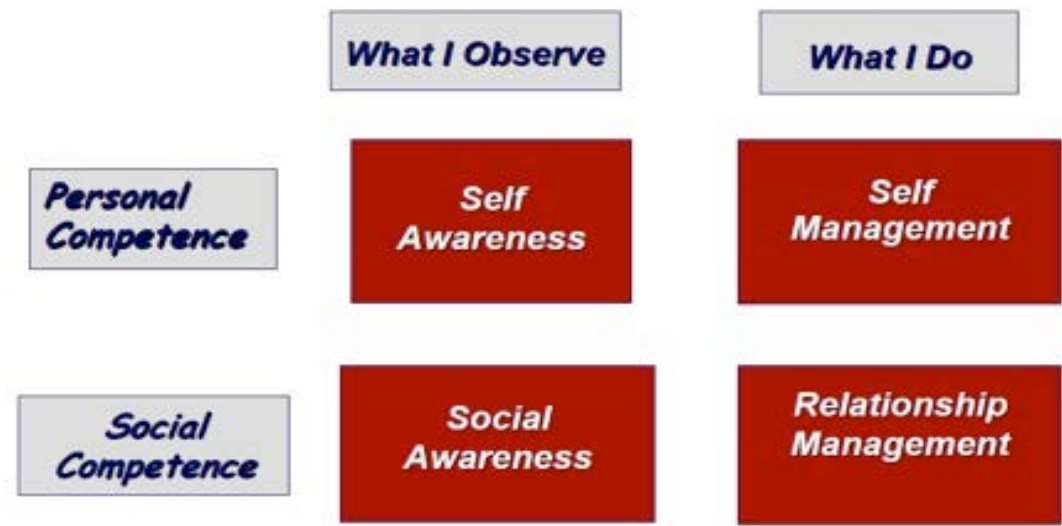
Week 4: Sex & Sexuality

Week 5: Dating & Sexual Violence

Week 6: Accountability, Action, Wrap Up, & Mentorship

EMPHASIZING EI & ER

FOUR DOMAINS OF EMOTIONAL INTELLIGENCE

I. Self Awareness	II. Self Management	III. Social Awareness	IV. Relationship Management
*Know your story and how it affects you *Make peace with your past *Know your beliefs, your emotions and your behavior patterns *Know your relationship patterns	*Develop skills for breathing and relaxation *Learn positive, self-affirming beliefs *Develop self-soothing and self-motivation skills *Maintain good physical health	*Understand nonverbal communication *Develop a positive view of others *Understand the basic emotional needs *Understand "games" and personal integrity	*Develop skills for reflective listening and empathy *Develop skills for assertive communication *Learn conflict resolution skills *Learn skills for support & affirmation of others

Emotional Intelligence Chart

	What I Observe	What I Do
Personal Competence	Self Awareness	Self Management
Social Competence	Social Awareness	Relationship Management

Goleman, D. (1995). Emotional intelligence: Why it can matter more than IQ. New York: Bantam Books

Feeling Words List

Protective Emotions

Anger	Fear	Panic	Sadness	Weak Feelings	Seeking / Engaging with Creation
annoyed	timid	flumoxed	disappointed	*Physical Fatigue*	curious
agitated	uneasy	mixed up	low	thirsty	clever
fed up	tense	unsure	down	hungry	inquisitive
frustrated	nervous	uncomfortable	gloomy	tired	motivated
irritated	insecure	troubled	disturbed	run-down	stimulated
mad	cowardly	perplexed	mingin	worn out	active
critical	worried	insecure	unhappy	sore	energetic
resentful	afraid	disoriented	hurt	powerless	intrigued
disgusted	threatened	stunned	awful	shaky	engaged
outraged	frightened	shocked	distressed	sick	constructive
raging	intimidated	anxious	hopeless	impotent	productive
furious	fearful	stuck	miserable	ill	creative
seething	anxious	lost	heartbroken	frail	eager
livid	panicky (ed)	trapped	depressed	lifeless	bold
bitter	shaky	desperate	terrible	exhausted	artistic
	horrified	helpless	crushed	stressed	fascinated
	terrified	frozen	devastated	fragile	confident
		hysterical		vulnerable	focused
		paralyzed		defenseless	determined
				insecure	inspired
				discouraged	inventive
				overwhelmed	ambitious
				Emotional Fatigue	absorbed
					obsessed

Connective Emotions

Caring Connection	Playful Connection	Sexual Connection
helpful	relaxed	flirtatious
secure	glad	affectionate
attentive	light-hearted	tender
considerate	amused	cuddly
friendly	cheerful	frisky
kind	comical	romantic
understanding	silly	physical
giving	happy	turned on
supportive	optimistic	amorous
connected	alive	desirous
tender	delighted	aroused
loving	giggly	stimulated
nurturing	spontaneous	hot
joined	imaginative	passionate
attached	whimsical	sexy
	joyful	orgasmic
	spirited	
	energized	
	cheerful	
	excited	
	bouncy	
	lively	
	animated	
	elated	
	ecstatic	
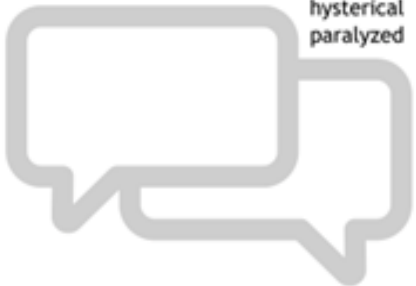
These Feeling Word lists are arranged in order of increasing intensity as you go down the list except for the weak feelings list
The Weak Feelings list is arranged on a continuum from feelings in response to physical fatigue to feelings in response to emotional fatigue

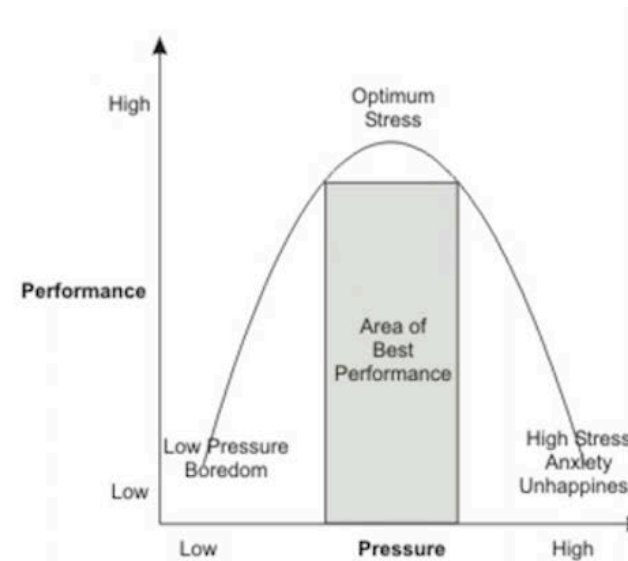# ENCOURAGING EMOTIONAL VOCABULARY

What is Stress?

Trauma response and stress response very distinct

Stress involves external demands/pressures overwhelming our internal resources and coping

What is Stress continued…

- Think about stress in terms of performance

- Psyching up associated with low stress/boredom

- High stress associated with anxiousness. Unhappiness, and being psyched out

- Optimum stress is in the middle

The Inverted-U relationship between pressure and performance

Klabo & Williams (2017)

BODY
Headaches
Frequent infections
Muscular tension
Fatigue
Skin irritations
Breathlessness

MIND
Worrying
Muddled thinking
Inability to concentrate
Nightmares
Indecisions
Negativity
Hasty decisions

STRESS

EMOTIONS
Loss of confidence
More fussy
Irritability
Depression
Anger
Anxiousness
Apprehension

BEHAVIOUR
Accident prone
Over- / under-eating
Loss of sex drive
Drinking more
Sleeplessness
Restlessness
Smoking more

STRESS & IMPACT

WHEN STRESS TURNS TO CRISIS

Profile of a Crisis

Stressful Event – single hazardous event OR
accumulation of many stressors

⬇

Initial Problem Solving Attempts Fail

Problem remains unsolved

⬇

Tension and anxiety increase

Internal Strengths and Social Supports Fail

⬇

Tension and Anxiety become Overwhelming

Person becomes a threat to self or others OR

Person cannot perform necessary functions

Stress, Crisis, Trauma

Psychological Definitions

- Stress – External Events; Typical Coping strategies are taxed

- Crisis – Typical Coping mechanisms are completely overwhelmed; need of external support

- Trauma – Awareness of threat to life and safety; psychobiological response - sustained

PSYCHOLOGICAL IMPACT ON RESPONDENT

The respondent/accused perpetrator of sexual or relationship violence certainly experiences a stressful situation in which typical coping strategies may be taxed. The potential psychological impact of being accused of such action is illustrated below:

Potential Psychological Impact

Anxiety
Worry
Fearfulness
Somatic complaints
Sleep disturbances

Depression
Helplessness
Hopelessness
Anger

Imprisonment
Family disruption
Loss of job/career
Damage to reputation

Intrusive Thoughts
Helplessness
Loss of self-control

Stigma
Concealing
Withdrawal

Aslan, 2008

IMPORTANCE OF SUPPORT

- Respondent would benefit from support/counseling

- Continuum from stress to crisis is real depending on coping mechanisms

- Counseling/other forms of support for respondent can buffer against re-traumatization of the process for complainants and less activating for respondents
  - MANY INTERESTING STORIES!

CRITICAL ROLE OF SUPPORT

Crisis Reactions: Risk of Harm

To Self

Direct: *If I am found responsible...*
...I will kill myself.
...my life is over.

Indirect:
I give up.
It would be better if I was gone.
Saying "goodbye"
Giving away items

Suicide Prevention Approach

To Others

Direct: *If I am found responsible...*
...I will kill you.
...you will regret it.

Indirect:
You will pay.
This isn't over.

Elevated risk if also suicidal

Threat Assessment Approach

SUPPORTING OUR INDIVIDUALS IN THE WORK

APA GUIDELINES FOR PSYCHOLOGICAL PRACTICE WITH BOYS & MEN

- Psychologists strive to recognize that masculinities are constructed based on social, cultural, and contextual norms

- Psychologists strive to recognize that boys and men integrate multiple aspects to their social identities across the lifespan

- Psychologists understand the impact of power, privilege, and sexism on the development of boys and men and on their relationships with others

- Psychologists strive to develop a comprehensive understanding of the factors that influence the interpersonal relationships of boys and men

- Psychologists strive to encourage positive father involvement and healthy family relationships

- Psychologists strive to support educational efforts that are responsive to the needs of boys and men

- Psychologists strive to reduce the high rates of problems boys and men face and act out in their lives such as aggression, violence, substance abuse, and suicide

- Psychologists strive to help boys and men engage in health-related behaviors

- Psychologists strive to build and promote gender-sensitive psychological services

- Psychologists understand and strive to change institutional, cultural, and systemic problems that affect boys and men through advocacy, prevention, and education

REFLECTIONS

- *What was the first thing you learned regarding what it meant to be a man?*

- *Who were/are your masculine role models? What did you learn from them?*
  - *When you think of them, how do you think they would manage strong difficult emotions? How have they responded or behaved in the past? Has their method changed over time?*
  - *When was the first moment(s) that you realized there were different ways to be a man that might be different than your socialized understanding?*

- *What impact did/does that have on you personally, professionally, etc?*

MY GUIDELINES

- Do the "self" work

- Do not jump to conclusions

- Initiate the conversation
  - Think Cultural Mistrust literature

- Every man/masc/person in general has their own story to tell! Listen and ask questions
  - The "intersectionality" of masculinities

- Model and Permission

- Compassion for men; Humanity of men

- Explore Gender Role Conflict/Gender Role Strain
  - Become aware of how masculinity/power fits into the context of their life circumstances

- Remember there is no 'one-size-fits-all' solution
  - No right way, but probably some "wrong ways"

**Recall how I started this…"Being Led"

**Relational approaches to intervention whether on an individual or group level can be very effective and helpful; meet them where they are

**Restorative practices, alternative resolutions, different conditions for accountability where appropriate

**Redirecting the relationship between stress and sense of belonging

INTERDISCIPLINARY

RESOURCES

Rutger Bregman Humankind: A Hopeful History

Justin Baldoni and *"Man Enough"*

Judith Herman (2023) *Truth and Repair: How trauma survivors envision justice*

A Will to Change – bell hooks

For Boys Who Dance – Craig Cartwright

Heroes, Villains, and Healing: A Guide For Male Survivors of Child Sexual Abuse Using DC Comic Superheroes and Villains – Kenneth Rogers Jr.

Remaking Manhood – Mark Greene

Deep Secrets – Niobe Way

The Mask you Live In

The Work – Documentary; Jairus McLeary

Good Men Project

Ashanti Branch *Taking off the mask podcast*

APA Division 51 Taskforce for Boys in School

If You've Come this Far Podcast' MenLiving

Me & Adam Dodge *Engaging Men in the Digital Age* [Webinar]

Transformharm.org

Dylan Garity - Friend Zone

"Trafficked" with Mariana Van Zeller

Counter messengers

WHAT'S "YOUR WORK?"

- What are the priorities for the conversation on accountability and/or masculinity in your world?

- What is your role and responsibility in the conversation?

  - Write 1 commitment to intentionally incorporating masculinity work into your practice(s) where appropriate

- Where will you find support for this commitment?

  - Who can provide Partnership? Mentorship?

  - Who can you collaborate with from this room? Your spheres of influence?

FINAL THOUGHTS

Beyond Compliance:

Five Strategies to Engage Diverse Learners in Title IX Training and Create Real Culture Change

Rachel Brian, CEO Blue Seat Studios • 10.29.2024

Welcome!

Introduction:
- Tea Consent and Blue Seat Studios

Goal of the Session:

- To offer attendees the tools and inspiration they need to revitalize their Title IX training programs and create lasting cultural change within their institutions.

Icebreaker!
- What are some current challenges you face in your Title IX training.

The Power of Mixed Media

The goals:

- Create relatable down-to-earth content that helps people buy in to new behaviors

- Keep in mind diverse learning styles, attention span and cultural norms

- Shift the culture with near adopters

These folks may hold beliefs or practice behaviors that are undesirable

This group is interested in practicing desired behaviors but may not know what they are

This group is already practicing the desired behaviors

Hold undesirable beliefs > **Inconsistent ideas** > **Need more education** > **Need a nudge** > **Practicing Desired Behaviors**
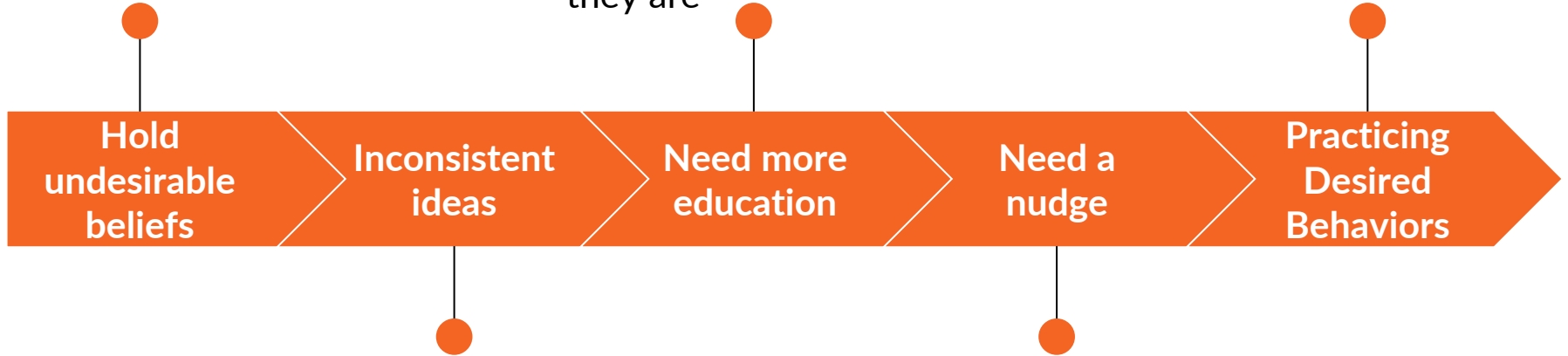
These people may have different ideas in play as they consider their actions

These folks know how to behave, but may need a nudge to remember
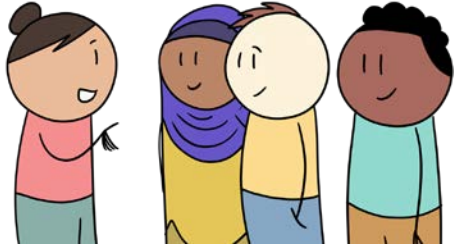
Five Strategies to Engage

1. **Storytelling**
   - It's challenging to remember statistics and other facts

   - It's EASY to remember stories. As social beings, human brains are set up to remember interesting stories!

2. **Appropriate Humor**
   - Humor helps us bypass our defensiveness

   - The key is that the humor never "punches down". While silly, use of humor must be mindful of these sensitive topics

Five Strategies to Engage

3. Interactivity

- Online questions that are open ended or interesting (think BuzzFeed quizzes)

- Using videos as a jumping off point for group discussions to create shared norms

4. Visual Learning

- Long text boxes are a staple of training videos - use graphics to "show" rather than "tell"

- Keep content short and to the point - attention spans vary

Five Strategies to Engage

5. Collaborative Learning

- Use videos as a jumping off point for group discussions to create shared norms

- Create new content with viewers (eg. social contracts, agreements on core values)
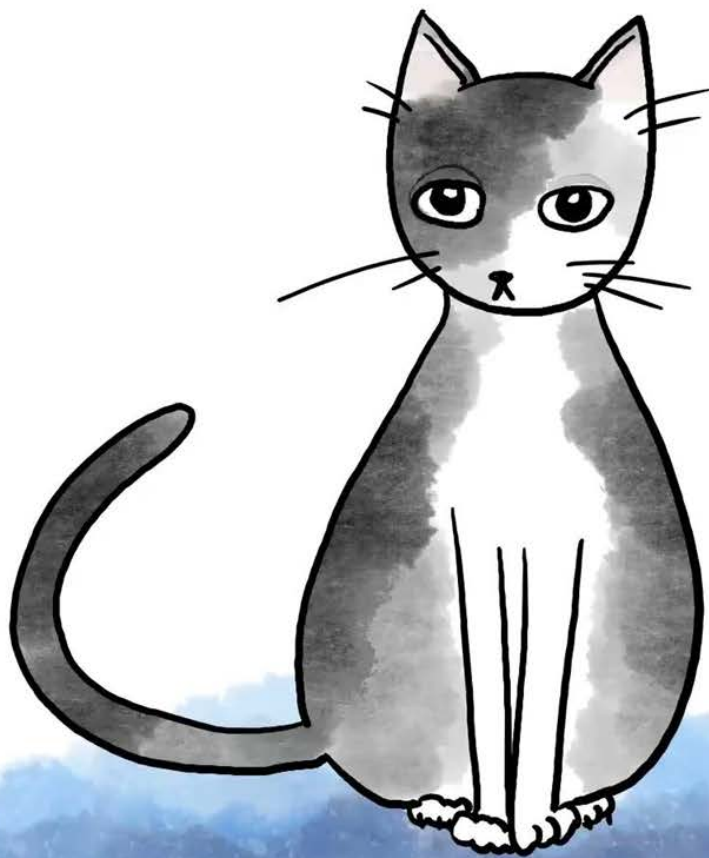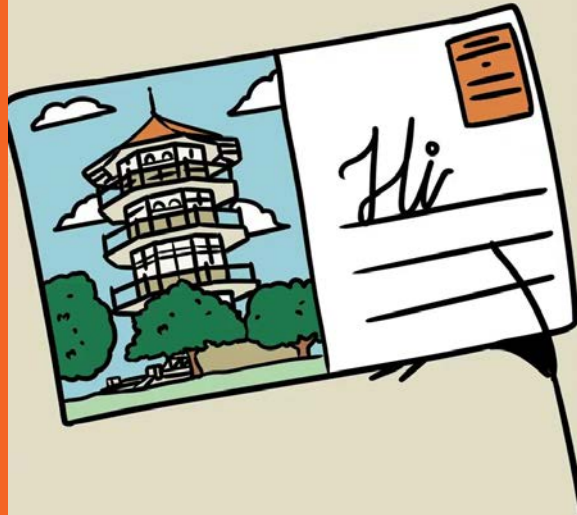
Collaborations

Futures Without Violence

Domestic Abuse prevention

Hong Kong Universities

Sexual Harassment Prevention and Education

National Hockey League

Bullying, Abuse, Harassment and Discrimination Prevention

Synchrony Bank

Cybersecurity and Leadership Training

Thanks for Coming!

1. Come by our table for a free character portrait!

2. Check out our catalog of helpful training

3. Set a meeting with Rachel to talk about your training needs! Calendly.com/rachelbrian

Working With a Bias Assessment Team and Alternative Resolutions in Title IX

OFFICE OF TITLE IX PROGRAMS AND GENDER EQUITY
COLORADO STATE UNIVERSITY

More information at oeo.colostate.edu

COLORADO STATE UNIVERSITY | OFFICE OF EQUAL OPPORTUNITY

Araiña Muñiz, MBA, Executive Director for Civil Rights Compliance, CSU
Siena Ho Shue, BA, Title IX/OEO Technician, CSU

Who We Are: As Humans

Araiña Muñiz

Siena Ho Shue

Siena (She/Her/Hers) serves as a Title IX and OEO Technician at Colorado State University. With a bachelor's degree in psychology and criminology from the University of South Florida, she discovered her passion for Title IX and DEI work through an internship that evolved into a five-year career that is continuing to grow. While continuing graduate education at CSU, Siena has since worked in various roles supporting the Executive Director, civil rights investigators, and deputy directors across various departments, including HR, serving on campus committees which monitor equity along with physical and virtual accessibility. Siena is also part of a clinical psychology lab, which focuses research on substance use and risky behaviors in historically marginalized populations.

Acknowledging Traditional Processes

The Bias Assessment Team is **not** meant to replace these traditional routes for addressing incidents of this nature, but intended to supplement them

Title IX and/or OEO Formal Investigation

- Conducting a formal investigation when a complaint is filed alleging discrimination, harassment, or retaliation (interviews, evidence collection, determination of findings, etc.)

Informal Resolution:

- Good-faith pursuit between parties to reach a voluntary agreement in which there is no determination of responsibility, however the terms become binding when accepted (e.g. written apology, diversity/inclusivity, training, no-contact measures, etc.)

► CSU's mission is to offer access to an excellent education, provide outreach to the people and communities we serve, and conduct purpose-driven research, addressing challenges facing our state, nation, and world, while playing an essential role in Colorado's development.

► Our Principles of Community reflect our core values and support CSU's mission.

   ► Inclusion

   ► Integrity

   ► Respect

   ► Service

   ► Social Justice

Colorado State University takes great pride in its mission to provide access to education to all who have a desire and will to learn. In alignment with this mission and in pursuit of its goal to allow all University members to realize their full potential, CSU affirms and upholds the values of diversity, equity, and inclusion. Any act of hate or bias is counter to the university's Principles of Community.

Bias Assessment Team: Mission

Structured Response to Bias

➢ Support services

➢ Educational and training initiatives

➢ Climate Assessment

➢ Response Tracking

Purpose of the Bias Assessment Team

- ## Support
  - o First and foremost, individuals who are targeted by perceived bias-related incidents are offered critical support as they work through their own process and feelings.

- ## Education
  - o Engage in optional conversations with individuals and groups who, whether intentionally or not, may have caused harm to others related to some form of bias. These conversations are rooted in education and aim to provide critical context to why an action may be perceived as biased.

- ## Assessment
  - o Assessing reported incidents and tracking the data annually, helps to understand the climate of Colorado State University as it relates to bias. This data informs and helps shape training programs and educational opportunities for the university community.

Student Resources

- Survivor Advocacy and Feminist Education (SAFE) Center
  - Complainants and Secondary Survivors
  - 24-hour hotline
- Office of Title IX and Equal Opportunity
- CSU Health and Medical Center Counseling Services
- Student Case Management
- Tell Someone

Employee Resources

- Survivor Advocacy and Feminist Education (SAFE) Center
- Office of the Ombuds
  - Facilitates connection to resources, facilitates dispute mediation,
  - Interprets university policy and shares about systemic patterns with administrators
- Office of Title IX and Equal Opportunity
- Employee Assistance Program (EAP)
- Tell Someone

Confidential vs. Private Resources

It is crucial as part of our bias assessment structure to inform students and employees about the reporting requirements of each resource

OFFICE OF TITLE IX PROGRAMS AND GENDER EQUITY
COLORADO STATE UNIVERSITY

Monitoring Behavioral Trends

Analysis and Consultation on Behavioral Trends

Regular meetings to review and discuss reported conduct on campus for notable patterns of risk

Identification of Potential Incidents of Bias

Monitoring for increased risk of:
- Potential incidents of bias
  - Election
  - Sporting Events
  - Controversial speakers
  - Anniversary dates

Assessment of Campus Climate

Evaluation of the overall climate and environment, addressing observed behavioral trends and how they reflect and/or influence broader culture and dynamics of the university community

Collaboration Approach

Team members work together to share insights, exchange critiques, and guide the institution's response and intervention tools

"The strength of the team is each individual member. The strength of each member is the team."

- Phil Jackson, most winning NBA championship coach in history

THE CORE BAT TEAM

- OGC
- Title IX/OEO
- University Police
- Office of Inclusive Excellence
- Support and Safety
- Marketing/Communication
- Student Affairs
  - Student Conduct/Student Resolution Center
  - Associate Dean of Students
  - Assistant Vice President of Student Affairs & Dean of Students
  - Residence Life

BIAS CONSULTATION TEAM

High ranking University officials:

Provost

OGC

VPSA

AVP Inclusive Excellence

HR

OEO/TIX

Support and Safety

Meet multiple times a semester to evaluate:

Policy changes

High level structural changes

Trends and patterns

Collaboration with Student Affairs and CSUPD

Coordinates Undergraduate Student Response

- Connect students to resources

- Coordinate response

- Student conduct response (when applicable)

- Student Resolution Center

Coordinates Police Response

- Support with ongoing criminal investigations

- Obtaining video footage
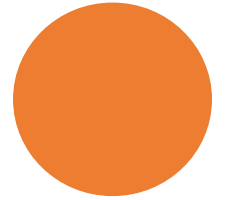
Collaboration Between the OEO and the OIE

- The Office of Equal Opportunity and Office of Inclusive Excellence frequently collaborate in coordinating bias response efforts as reported incidents can overlap

- Partnership with key stakeholders

- Follow up conducted by a team

- Determination: Who does what follow-up?

Working with Housing, Dining Services and Facilities Management

- Monitoring of campus communities
- Connecting with Facilities around the removal of graffiti/defacement around:
    - Classroom building walls and hallways
    - Residence hall common areas
    - Bathrooms
    - Parking lots
    - Recreation and dining centers
    - Posters and advertising/media presented by student organizations and offices on campus

Navigating Policy: Free Speech and Academic Freedom

Where is the Line?

Protests & Assemblies: WHAT IS AND ISN'T ALLOWED?

ALLOWED:
- **Peaceful assemblies:** Assembling in groups for peaceful rallies, demonstrations, and gatherings on parts of the university campus that are designated public forums and comply with applicable policy guidelines. Public health restrictions may also apply.
- **Countering speech:** The First Amendment encourages speech and counter speech, and you may exercise your own First Amendment rights to counter someone else's speech with your own, provided it does not interfere with the rights of others to peaceably assemble or exercise their right to free speech.
- **Events:** Authorized organizations may reserve spaces on campus and in campus facilities for events. The sponsoring organization and participants must comply with law enforcement and the campus's relevant policies and event guidelines.
- **Chalking:** In certain designated locations, you may express yourself with washable chalk (no spray chalk or paint) on horizontal concrete ground (no steps, paving stones, buildings, or walls). Please check with the applicable policy beforehand to learn where chalking is or is not permitted.
- **Posters:** Only posters that are sponsored by registered student organizations or an official university unit or department are allowed in designated areas, with university permission.
- **Silent and symbolic protests:** Displaying a sign in certain locations on campus, gesturing, wearing symbolic clothing, or otherwise protesting silently is permissible unless it is a disruptive activity or impedes access to facilities. In addition, such acts should not block the audience's view or prevent the audience from being able to pay attention to a lawful assembly and/or an official university event.
- **Campaigning:** CSU encourages its students, faculty, staff, and other members of the community to participate in political discourse, enlightenment and action, and welcomes these activities to our campuses. As a public university system of the State of Colorado, CSU is subject to the limitations of the Colorado Fair Campaign Practices Act (FCPA), which generally prohibits CSU (and other public entities) from expending any public money for contributions to a campaign for elected office or from urging electors to vote in favor or against any ballot issue or referred measures. Employees and students are free to express their political opinions when speaking or writing as individuals in their personal capacity and not as a representative of an institution.

NOT ALLOWED:
- **Unlawful activity.**
- **Disruptive activity:** Any act that unreasonably interferes with the rights of others to peaceably assemble or to exercise the right of free speech, disrupts the normal functioning of the university, damages property, interferes with a university event/function, or endangers health or safety is specifically prohibited.
- **Blocking reasonable access:** The university is required by law to provide and maintain reasonable access to, and exit from, any office, classroom, laboratory, or building. This access must not be obstructed at any time.
- **Silencing or attempting to silence a speaker.**
- **Preventing others from seeing or hearing at an event:** Displaying a sign, gesturing, wearing symbolic clothing, or otherwise protesting silently is permissible unless it is a disruptive activity or impedes access to facilities. In addition, such acts should not block the audience's view or prevent the audience from being able to pay attention to a lawful assembly and/or an official university event.
- **Unsafe items:** The display of firearms or weapons and the illegal possession of firearms or weapons, as well as the possession of torches or other items with an open flame greater than one inch, sticks, poles, shields or other items that may be used to cause injury is prohibited. Persons may carry signs or flags as long as those signs or flags are not attached to a stick or pole. In addition, depending upon the event and its location, the university may have additional restrictions that limit the possession of other items.
- **Unpermitted events outside public hours:** Using campus public areas, including the LSC Plaza area, for events, demonstrations, meetings, assemblies, or other expressive activity before 7 a.m. and after 7 p.m., without a prior reservation for an official university event that has been approved by the university, is prohibited.
- **Posting signs, posters, or banners of any kind on campus trees.** It's just hard on the trees and wildlife.
- **Posting signs, posters, or banners without official permission or in areas not designated for this purpose.**
- **Disrupting classes.** Classroom speech is different from speech in public forum areas. Certain types of speech aren't allowed, including any activity that interferes with a faculty member's ability to conduct class.

- Bias: any incident of conduct, speech, or expression, motivated in whole or in part by bias or prejudice intended to intimidate, demean, mock, degrade, marginalize, or threaten individuals or groups based on that individual or group's actual or perceived identities
- Effective communication to students and employees about differences between assembly and protest
- Self-expression vs. perceived incidents of bias

Ongoing Climate Assessment: Aggregate Bias Reports

Not all incidents of bias which occur at the university are reported through the Bias Reporting System, for a variety of reasons including:

- The wishes of the individual(s) targeted or reporting

- Confidentiality

- Safety concerns

- Conflicts with ongoing police investigations

Incidents of bias are shared publicly via report and/or by email through university or division-wide notifications

All incidents of bias submitted through the Bias Reporting System are included in a confidential aggregate report released at the end of each academic semester, with summer semester data included in fall semester reports.

Incidents of Hate and Bias

Fall 2023 Report

At-a-Glance: Bias Incidents in 2023

- Reported bias incidents between mid-August and mid-December

- Record delivery method of the bias incident (graffiti, online, physical, verbal)

- Record delivery method of the bias incident report (anonymous, student, staff, faculty, non-affiliated)

- Bias incident locations include academic, residential, employee, online, and off-campus spaces
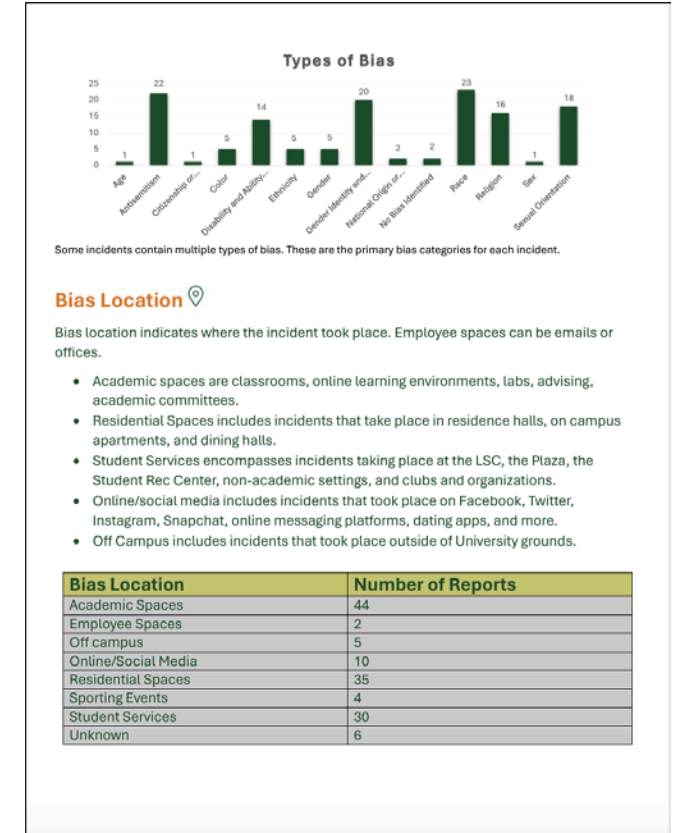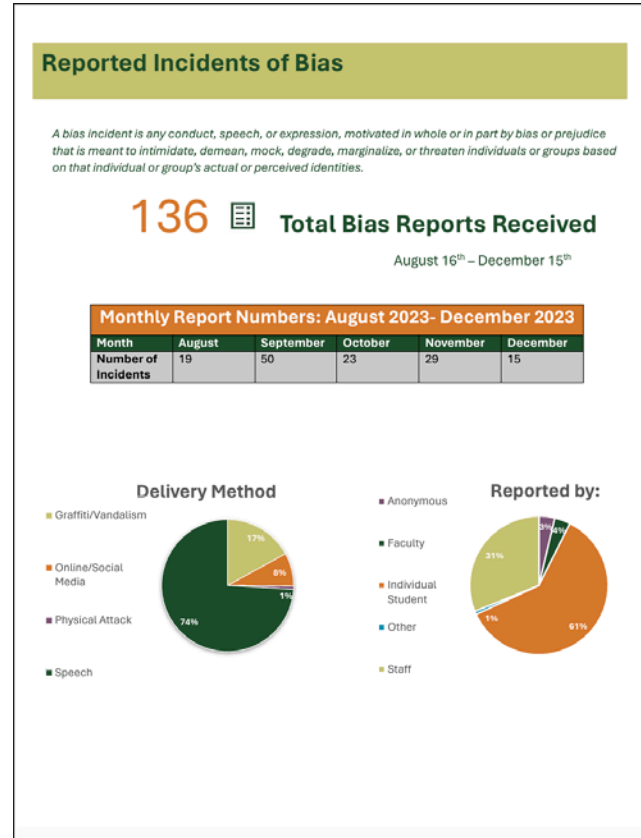
Reporting An Incident of Bias at CSU

Bias Reporting Website

Bias Reporting | Colorado State University (colostate.edu)

Activity – Pair Up:
What Does Your Bias Assessment Team Look Like?

- Which offices on your campus would you bring into the conversation?

- Select 1-2 partners to brainstorm the individuals and areas on campus that you would like to include

- Examples: OGC? OIE? SDC?

Post-Activity Discussion: Members of the Team

- Provost's Office: The Provost's Office oversees the assessment process and provides guidance on institutional policies and procedures

- Department Leadership: Department Chairs are responsible for initiating the bias assessment process within their respective departments and providing input on potential improvements.

- Office of Inclusive Excellence and Diversity Offices: The Diversity and Inclusion Office serves as a central resource for bias assessment and offers expertise in identifying and addressing biases within the institution.

- Human Resources: The Human Resources department collaborates with the assessment team to ensure compliance with employment laws and provide guidance on best practices for mitigating bias in hiring and promotion processes.

- Faculty Senate: Faculty Senate representatives participate in the assessment process to ensure the perspectives of the academic community are represented and that any recommendations align with the university's mission and values.

Activity – Case Study: Lucas

- Case Scenario:

- A cultural center reached out to the BAT to report that a <u>marketing and engagement coordinator</u> (student worker) has indicated that they will cannot promote or particpate in any LGBTQ+++ events or materials.

   -Their position position includes promoting all cultural center events on social media

- Represent and promote the mission of the center in person and through virtual events

- Responsible for generating and posting content via the center's online platforms

What is your first step?

What are some factors to consider?

Which BAT members will you include?

Activity – Case Study: Blake, Casey, Taylor, and Jordan

- Divide into small groups of 2-3

- Case Scenario:
  - Several incident reports received from two students (CPs), Michaela and Allison, about ongoing behavioral concerns in Laurel Village involving fellow student residents Blake, Casey, Taylor, and Jordan (RPs)
  - Incident reports explain the Respondents (4) to be:
    - Comments about wanting to engage in sexual activity ("tap that") with the CPs and making sexualized comments about their age (17)
    - Sexist comments made about the CPs current romantic partner and who they "belong" to
    - Running through the residence hallways and making noise to prompt the CPs to open their door and interact with the RPs
    - Standing in the doorway of the living space and refusing to allow the CPs to close the door
  - Reports from residents also mention of subsequent fights breaking out in the residence halls with the presence of alcohol, further contributing to the safety concerns reported by CPs
  - There has been drawing of racist imagery on the whiteboards of residents, including swastikas and KKK members reeling in a monkey with a fishing line.
  - There has been transphobic graffiti reported on the RA's bulletin board as well.
  - During one of the recent football games residents on campus were pre-gaming and a physical altercation was reported. The report indicated that there were people with blood and "girls who were not involved were being pushed and elbowed" during the reported incident.

What is your first step? Which BAT members will you include?

Collaborative Publications on Advancing Efforts to Prevent Sexual Harassment in Higher Education

NEW

PREVENTING AND ADDRESSING RETALIATION RESULTING FROM SEXUAL HARASSMENT IN ACADEMIA

This paper discusses the existing legal protections against retaliation towards those who experience or report sexual harassment in higher education, conditions that enable retaliation to occur, negative consequences of retaliation, and policies and practices that may help prevent retaliation. It serves as research-based resource for higher education administrators; practitioners; faculty, staff, and student leaders. It is available for free: https://nap.nationalacademies.org/catalog/27362/preventing-and-addressing-retaliation-resulting-from-sexual-harassment-in-academia

NEW

APPROACHES TO THE EVALUATION OF SEXUAL HARASSMENT PREVENTION AND RESPONSE EFFORTS

The limited research evaluating efforts to prevent, respond to, and create policies around sexual harassment makes it challenging to determine whether efforts to address sexual harassment are effective, ineffective, or even harmful in application. This paper explores the principles of sexual harassment evaluation and the methods available to researchers and higher education administrators for evaluating a broad array of different interventions. It is available for free: https://nap.nationalacademies.org/catalog/27267/approaches-to-the-evaluation-of-sexual-harassment-prevention-and-response-efforts

NEW

EXPLORING POLICIES TO PREVENT "PASSING THE HARASSER" IN HIGHER EDUCATION

This paper explores decision points around the development and implementation of policies to prevent the practice known as "passing the harasser." In order to foster organizational climates that prevent sexual harassment and hold individuals accountable for their behavior, institutions need to explore options for policies and procedures that augment background checks, increase transparency, and facilitate the sharing of information about findings of sexual harassment. It is available for free: https://nap.nationalacademies.org/catalog/27265/exploring-policies-to-prevent-passing-the-harasser-in-higher-education

NEW

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS

This paper explores different approaches to developing, implementing, and evaluating the efficacy of sexual harassment bystander intervention trainings for faculty, staff, and graduate students. These approaches highlight the importance of collaboration across an institution's offices and the use of field-specific scenarios tailored to different audiences and power dynamics. It is available for free: https://nap.nationalacademies.org/catalog/27266/strategies-for-developing-implementing-and-sustaining-sexual-harassment-bystander-intervention-programs-for-faculty-staff-and-graduate-students
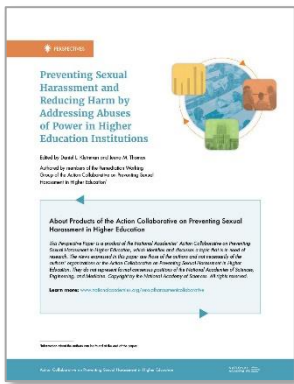
PREVENTING SEXUAL HARASSMENT AND REDUCING HARM BY ADDRESSING ABUSES OF POWER IN HIGHER EDUCATION INSTITUTIONS

Pulling from research and institutional examples, this paper examines the types of power differentials in academia, how abuses of power can take the form of sexual harassment, and strategies for preventing and remediating such abuses. It is available for free at: https://www.nationalacademies.org/news/2023/02/preventing-sexual-harassment-and-reducing-harm-by-addressing-abuses-of-power-in-higher-education-institutions

APPLYING PROCEDURAL JUSTICE TO SEXUAL HARASSMENT POLICIES, PROCESSES, AND PRACTICES

This paper explores how a procedural justice framework could help guide improvements and revisions to policies, processes, and practices within higher education institutions with the potential to mitigate the negative exp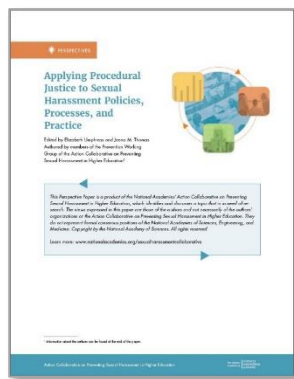eriences and outcomes of those affected by sexual harassment. The paper encourages institutions to apply procedural justice and thereby promote increased perceptions of fairness and trust for those in the organization. It is available for free at: https://www.nationalacademies.org/news/2022/04/applying-procedural-justice-to-sexual-harassment-policies-processes-and-practices

INNOVATIVE PRACTICES TO STOP PASSING THE HARASSER

Two innovative practices from the University of Wisconsin System and the University of California, Davis provide comprehensive descriptions of policies and practices for stopping what is called "passing the harasser." The publications detail how the policies work and what processes were used to develop and implement them, with the aim of enabling other organizations to adapt and apply it to their own environment. They are available for free:
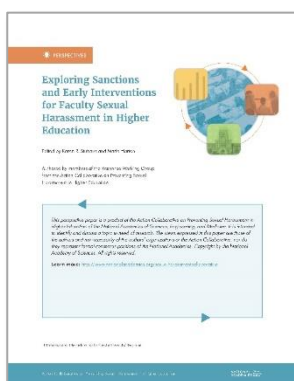
- https://www.nationalacademies.org/news/2022/04/innovative-practice-university-of-california-davis-stop-passing-the-harasser-policy
- https://www.nationalacademies.org/news/2022/04/innovative-practice-university-of-wisconsin-system-stop-passing-the-harasser-policy

EXPLORING SANCTIONS AND EARLY INTERVENTIONS FOR FACULTY SEXUAL HARASSMENT IN HIGHER EDUCATION

This paper lays out the challenges and current landscape for how higher education deals with harassment by faculty members and notes some ways in which academic administrators may intervene and hold tenured or tenure-track faculty accountable for harmful behaviors that are not deemed institutional or legal violations. The paper draws attention to four current challenges for responding to sexual harassment by faculty members: coordination, transparency, consistency, and correcting behavior through accountability. It is available for free at: https://www.nationalacademies.org/news/2022/10/exploring-sanctions-and-early-interventions-for-faculty-sexual-harassment-in-higher-education

NATIONAL ACADEMIES   Sciences   Engineering   Medicine
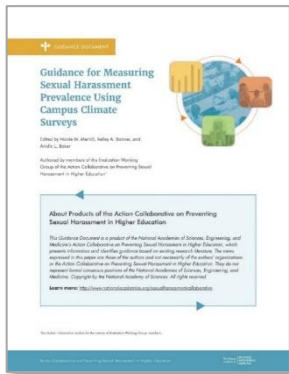
GUIDANCE FOR MEASURING SEXUAL HARASSMENT PREVALENCE USING CAMPUS CLIMATE SURVEYS

Measuring the prevalence of sexual harassment on a campus can be achieved by collecting population-based data in the form of a large-scale survey such as a campus climate survey. The ability for such a survey to do so accurately, however, depends on many factors. To help the higher education institutions conduct climate surveys that align with best practices identified by research, this guide provides key considerations for each step in the climate assessment process. It is available for free at:

https://www.nationalacademies.org/news/2021/09/guidance-for-measuring-sexual-harassment-prevalence-using-campus-climate-surveys

BUILDING A SOLID FOUNDATION:

TAILORING TITLE IX TOOLS

ATIXA ANNUAL CONFERENCE

FALL 2024

Helpful **ASSESSMENT** TOOLS

Federal Regulations and Guidance
Prevalence & Prevention
Resources
ATIXA Resources
Tools and Tips
References
Reflection

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Federal Regulations and Guidance

Title IX

- U.S. Department of Education (ED) civil rights laws and policy information: https://www.ed.gov/laws-and-policy/civil-rights-laws
- Full Title IX Regulations 34 C.F.R. § 106: https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-106
- 2020 Regulations: federal register publication of final rules published 05/2020 (select pdf from the left toolbar to see document with page numbers): https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal
- OCR Q&A regarding 2020 regulations: https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/202107-qa-titleix.pdf
- 2024 Regulations: federal register publication of final rules published 4/29/24 (selected pdf from the left toolbar) https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal
- 2023 Department of Education higher education compliance resources: https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/supporting-educational-environments-disc-free-pse-072023.pdf
- Department of Education Reading Room (guidance documents): https://www.ed.gov/laws-and-policy/civil-rights-laws/resources
- Department of Education OCR Resolution Agreements: (OCR Search Page) https://ocrcas.ed.gov/ocr-search

Significant Legal Cases

Bostock Supreme Court - Bostock v Clayton Co - multiple individual cases finding that discrimination on the basis of sexual orientation or gender identity is necessarily also discrimination "because of sex" as prohibited by Title VII. https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

Baum 6th Circuit - *Doe v. Baum et al.* - extending process rights in Title IX procedures - Littler blogpost: https://www.littler.com/publication-press/publication/sixth-circuit-provides-expansive-due-process-rights-title-ix-cases; Court finding: http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0200p-06.pdf Of note: "...This court has found that when witness credibility is at issue, the accused must have an opportunity for at least a "circumscribed form" of cross-examination where he or she is allowed to submit questions to the trier of fact, who will then directly pose those questions to the witnesses. Doe v. Cummins, 662 F. App'x 437, 446 (6th Cir. 2016). " (p18) and "...this court has instead held that the university must provide at least the "circumscribed form" of cross-examination set out in Cummins" (p20)
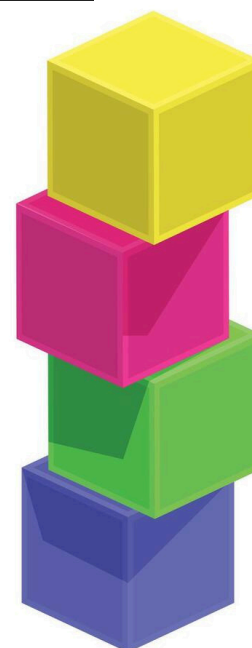
Clery Act

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990

- United States Code 20 U.S. Code § 1092 https://www.law.cornell.edu/uscode/text/20/1092
- VAWA Reauthorization Regulations 2014: https://www.govinfo.gov/content/pkg/FR-2014-10-20/pdf/2014-24284.pdf
- Resources for Clery Compliance: https://www.clerycenter.org/the-clery-act
- Federal Bureau of Investigations Hate Crime UCR (Uniform Crime Reporting): https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/hate-crime
- Regulations at 34 CFR 668.46 (last amended in 2024); and adds reference to VAWA to include "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), and "stalking" as defined in 34 U.S.C. 12291(a)(30).
- Violence Against Women Reauthorization of 2013 (VAWA) amended the Clery Act §668.46 of Title 34 of the Code of Federal Regulations enact the changes.
- https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46 and
- https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs

- Training requirement under the Clery Act is found in § 668.46(k)(2)(ii) reflects what is required by section 485(f)(8)(B)(iv)(I)(bb) of the Clery Act as amended by VAWA.
- Title IV Spending Reauthorization of VAWA 2022, beginning on page 869, Find information about requirement of a Federally developed climate survey for postsecondary school experiences, details. SEC. 1507. Online Survey Tool For Campus Safety beginning on page 959, https://www.govinfo.gov/content/pkg/PLAW-117publ103/pdf/PLAW-117publ103.pdf
- The Clery Act also refers to the Federal Bureau of Investigations (RBI) Uniform Crime Report (UCR) program for reporting data, this allows for comparison of law enforcement data nationwide. More information can be found here: https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/publications

Title VII

- Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964
- Justice Department discussion of relationship between / overlap of Title IX and Title VII: https://www.justice.gov/crt/title-ix#2.%C2%A0%C2%A0%20Relationship%20to%20Title%20VII
- EEOC Pregnant Workers Fairness Act: https://www.eeoc.gov/pregnancy-discrimination

Prevalence and Prevention Resources

- CDC National Intimate Partner and Sexual Violence Survey (NISVS): https://www.cdc.gov/nisvs/about/index.html (2016/17 data, published in 2023)
- LGBTQ Victim's Assistance Resources: http://avp.org/wp-content/uploads/2019/02/WhyItMatters.pdf
- LGBTQ DV and barriers to reporting https://vawnet.org/sc/rates-and-prevalence-dv-lgbtq-communities
- Community College health outcomes (sexual health and sexual violence): https://cchealthstudy.com/
- College Health and Wellbeing data (American College Health Association): https://www.acha.org/resources-programs/data-solutions-assessments/data-hub/
- Training and Prevention Overview (2021 Conference presentation, 2020 regs)
- Non-profits that provide programming, campaigns, blogs and ideas about healthy relationships, ending sexual violence:
- https://www.nsvrc.org/prevention National Sexual Violence Resource Center (NSVRC)
- https://www.stalkingawareness.org/stalking-behaviors/ Stalking Prevention And Resource Center (SPARC)
- https://stopsexualassaultinschools.org/sexual-assault-k-12-reports/ Stop Sexual Assault in Schools
- http://onestudent.org/ http://www.loveisrespect.org/ http://www.vday.org/home
- Educational materials, resources and ideas:
- http://www.stopbullying.gov/
- Resources for LGBT friendly campus: https://www.campuspride.org/resources/strategies-for-lgbt-campuses/
- Climate Assessment / Data / Evaluation
- U.S. Department of Education(ED) developed the ED School Climate Surveys (EDSCLS) and associated web-based platform. The EDSCLS allows States, local districts, and schools to collect and act on reliable, nationally-validated school climate data (K12) https://safesupportivelearning.ed.gov/edscls
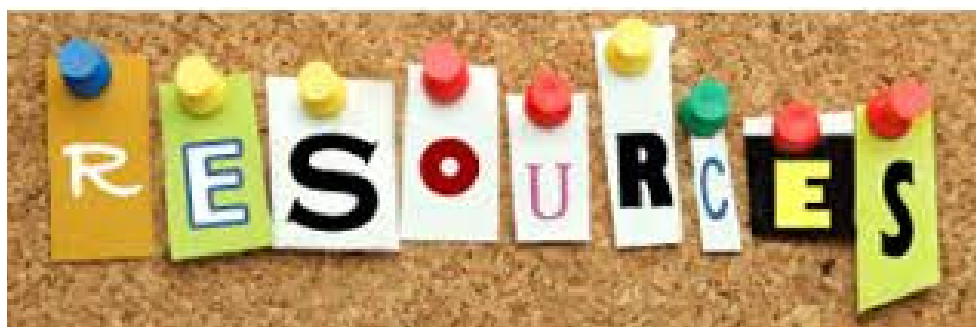
- **The National Assessment of Collegiate Campus Climates (NACCC) is a trio of quantitative surveys on campus racial climate administered annually at colleges and universities across the United States.** https://race.usc.edu/colleges/naccc/
- National Center for Education Statistics (NCES)'s School Survey on Crime and Safety, a nationally representative survey of about 4,800 public elementary and secondary schools. The study was conducted from February 15 to July 19 of 2022.
- And https://nces.ed.gov/admindata/crdc/pdf/AIR-CRDC-Ext-Sources-Brief-508-Dec-2020.pdf
- 2019 - Center for Education Equity report https://maec.org/wp-content/uploads/2019/06/Exploring-Equity-Teen-Dating-Violence-1.pdf

Sample Higher Ed Reports

- https://sites.usc.edu/sopdei/2022/04/01/usc-campus-climate-survey-on-sexual-assault-intimate-partner-violence-domestic-violence-and-gender-and-power-based-harm-in-the-lgbtq-community/
- https://libguides.tulane.edu/c.php?g=517735&p=5817749
- https://ira.virginia.edu/data-analytics/survey-data/campus-climate
- https://udayton.edu/arc/equity_compliance/_resources/2018-equity-compliance-report.pdf

ATIXA Resources

- Ensuring the Parties Have Title IX Process Advisors: https://www.atixa.org/blog/ensuring-the-parties-have-title-ix-process-advisors/
- Who's Who on the Higher Education Title IX Team? (2020 Regulations) https://www.atixa.org/resources/whos-who-on-the-higher-education-title-ix-team/
- ATIXA Title IX Toolkit (TIXKit) Hub: https://www.atixa.org/resources/atixa-title-ix-toolkit-tixkit-hub/
- Understanding Training vs. Prevention Education Requirements Under the Title IX Regulations and VAWA https://www.atixa.org/blog/understanding-training-vs-prevention-education-requirements-under-the-title-ix-regulations-and-vawa/
- You are not a Reasonable Person: https://www.atixa.org/blog/you-are-not-a-reasonable-person/
- Training and Events: https://www.atixa.org/training-and-events-schedule-at-a-glance/
- 20 minutes to...Trained Video Modules: https://www.atixa.org/20-minutes-to-trained-video-modules/
- Mentor Match: https://www.atixa.org/mentor-match/
- Scholarships: https://www.atixa.org/atixa-membership-scholarship-program/

Compliance Categories

Where is our institution at with each of these categories?

Athletics

Policy Development

Supportive Measures

Remedies

Compliance Categories

Pregnancy and Related Conditions

Clery Act: VAWA Section 304

Other Overlapping Laws/Regulations/Case Law/Resolution Agreements

Training (Campus Training, Title IX Team Training, etc.)

Building a Title IX Office/Team

What would be your ideal organizational structure and why? Where would the Title IX Office be best suited within the organization?

What would be the ideal staffing structure?

What political considerations do you need to take into account on your campus?

What financial constraints do you need to consider? Do you have a designated budget? Are you looking at a budget deficit? Are there ways to maximize resources?

Building a Title IX Office/Team

What would an ideal office space look like? Where would it be located? What considerations do you need to think about for balancing visibility and privacy concerns?

What would training look like for the Title IX Team? Are there individuals who are currently trained who just need updates? Are you starting from scratch?

What resources are available to you? Is there a training scholarship on campus? Are there grant funds you can apply for? Can you join forces with other offices on campus who may have more funding to support your efforts? Can you partner with other institutions?

What other considerations do you need to think about?

Building a Title IX Office/Team

How will we fill the following roles:

Title IX Coordinator

Intake Specialist/Coordinator

Dismissal Appeal Decision Maker/Challenge Decision Maker

Investigators

Building a Title IX Office/Team

Informal Resolution Facilitators

Decision Makers

Appeals Decision Makers

Advisors

Live Hearing Facilitator

Creating Collaborations

Answer the following questions to help develop a list of stakeholders that may be included or impacted by your work

Who is impacted by the work in your office?

Who makes decisions about the work and its implementation?

Whose voices need to be included during the process of planning?
Think about: participants, funders, staff, community members, etc.

Who needs to hear the story of your work?

What areas of expertise do you need to do the work? Who can you draw on for that expertise? (This question will likely be revisited as the office development takes shape)

Training Content Planning

What learning outcomes do you desire for your audience?

What content are you required to include? What other content do you think is important to include?

What are some of the values you want to infuse? What messages do you want to emphasize as takeaways?

What other considerations do you want to take into account?

Who is Responsible?

Content Development	Content Delivery
Scheduling	Reserving Space
Participant Tracking	Other

Other Considerations

What resources do we have available?

When will the content be delivered?

Will the content be delivered online or in person? By whom or what platform? Is it accessible?

Will content be delivered by team, by class, by gender, random, something else?

age

Sexual Orientation

RELIGION SPIRITUALITY

RACE ETHNICITY

Ability
Physical or intellectual

Gender
SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION

Size

socio-economic status

MY IDENTITY

How has your identity had an impact on interactions with students?

How has your identity had an impact on interactions with colleagues?

How does your identity impact your role within the Title IX Process?

Types of Biases

CONFIRMATION BIAS

When we establish a pre-conceived belief about a person before the meeting and then we look for information to support this belief. This can cause us to have a narrow view of an individual.

ATTRIBUTION BIAS

When individuals make attributions to their or others' behavior. These attributions often does not reflect reality. When we do something wrong or poorly, the tendency is to attribute that to external factors. However, when it comes to others we think the opposite. When a person does something well, we tend to attribute that to external factors and when they do something wrong, we tend to attribute that to their personality or level of intelligence.

BEAUTY BIAS

The unconscious connection between a person's appearance and their personality.

CONFORMITY

The force behind our desire to fit in with the dominant group.

AFFINITY BIAS

The tendency to get along with others who are like us.

HALO/HORN EFFECT

The tendency to allow one strong point that is valued highly to overshadow all other information. When this works in the individual's favor, it is called the halo effect. When it works in the opposition direction, it is called the horn effect.

CONTRAST EFFECT

The process of judging two things in comparison to one another, rather than individually assessing them.

GENDER BIAS

Favoritism toward one gender over another. This is linked to sexism (prejudice or discrimination based on a person's sex or gender.)

RACIAL BIAS

Tendency to prefer a person to another on the basis of race and to favor that person as a result.

ANCHORING BIAS

Making snap judgments and letting a first impression (either positive or negative) cloud the entire interaction.

CORRESPONDENCE BIAS

Tendency to make inferences about a person's disposition from behaviors that can be explained by the situation and context in which they occur.

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The tendency to see the world from your own experience and taking your perception as the objective truth.

AVAILABILITY BIAS/RECENCY EFFECT

A mental shortcut that relies on immediate examples that come to a given person's mind when evaluating a specific topic, concept, method, or decision. The tendency is to weigh the latest information more heavily than older data.

BIAS BLIND SPOT

This is a failure to recognize our own cognitive biases. Our ability to recognize the existence and effects of cognitive biases in others' thinking is easier than our ability to recognize this within ourselves.

STEREOTYPE THREAT

A situational predicament in which people are or feel themselves to be at risk of conforming to stereotypes about their social groups.

Your only side is the PROCESS

WAYS TO MINIMIZE BIAS

- Be aware of your own personal preferences
- Question your assumptions and first impressions
- Ensure you have enough time set aside to evaluate and reflect
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Mitigating Bias in Decisions

- Challenge biases in decision making
- Ensure decisions are made based on relevant evidence
- A party's personal identities are never considered relevant evidence
- Written materials should be objective and bias-free
- Spontaneous judgments are more likely to yield to stereotypes or bias
- Regard each party as an individual, not as part of a group
- Ensure sufficient time and sufficient focus

1 UNIVERSAL DESIGN

Work toward universal design and offer opportunities for Participants to share needs for accommodations at multiple points in the process. Enable closed captioning on Zoom when you are able.

2 PRONOUNS

Ask participants if they feel comfortable sharing their pronouns and name when meeting them and introducing them to colleagues. Have individuals interacting with participants share their pronouns when doing introductions as well (when comfortable). Be aware that in some states you are not permitted to ask pronouns.

3 CASE DISCUSSION

Recognize the ways in which the case is discussed. pay attention to biases that might be showing up and challenge any potential gender norms that might be coming up. What if the roles were reversed or someone had a different identity? Would you have different thoughts about the case?

4 FIRST IMPRESSIONS

Refrain from making snap judgments and allowing first impressions to cloud the entire interview. Explore your own biases. Do not assign a story to someone.

5 TAKE YOUR TIME

Allow enough time to read through materials, take notes, write, take notes, etc. Schedule time for writing and reading.

6 AVOID ASSUMPTIONS

Do not assume you know the answer to a question before it is asked. Do not make assumptions about how a person identifies. Don't be afraid to ask specific questions that are needed to get the information you need.

7 CONTINUE YOUR LEARNING

Take it upon yourself to learn more. In what areas do you need more growth or experience? Find articles or books that can expand your knowledge. Participate in more training that will allow you to challenge assumptions you may have.

8 ACCESSIBILITY STATEMENT

Include an accessibility statement when communicating with the parties regarding the process.

Reflection

What are three things you learned during this session?

What is something you will do differently when you return to campus as a result of this session?

What are three priorities you want to work on?

What is one campus partnership you want to develop?

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BUILDING A SOLID FOUNDATION:

TAILORING TITLE IX TOOLS

ATIXA ANNUAL CONFERENCE

FALL 2024

Helpful **ASSESSMENT** TOOLS

Federal Regulations and Guidance
Prevalence & Prevention
Resources
ATIXA Resources
Tools and Tips
References
Reflection

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Federal Regulations and Guidance

Title IX

- U.S. Department of Education (ED) civil rights laws and policy information: https://www.ed.gov/laws-and-policy/civil-rights-laws
- Full Title IX Regulations 34 C.F.R. § 106: https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-106
- 2020 Regulations: federal register publication of final rules published 05/2020 (select pdf from the left toolbar to see document with page numbers): https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal
- OCR Q&A regarding 2020 regulations: https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/202107-qa-titleix.pdf
- 2024 Regulations: federal register publication of final rules published 4/29/24 (selected pdf from the left toolbar) https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal
- 2023 Department of Education higher education compliance resources: https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/supporting-educational-environments-disc-free-pse-072023.pdf
- Department of Education Reading Room (guidance documents): https://www.ed.gov/laws-and-policy/civil-rights-laws/resources
- Department of Education OCR Resolution Agreements: (OCR Search Page) https://ocrcas.ed.gov/ocr-search

Significant Legal Cases

Bostock Supreme Court - Bostock v Clayton Co - multiple individual cases finding that discrimination on the basis of sexual orientation or gender identity is necessarily also discrimination "because of sex" as prohibited by Title VII. https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

Baum 6th Circuit - *Doe v. Baum et al.* - extending process rights in Title IX procedures - Littler blogpost: https://www.littler.com/publication-press/publication/sixth-circuit-provides-expansive-due-process-rights-title-ix-cases; Court finding: http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0200p-06.pdf Of note: "…This court has found that when witness credibility is at issue, the accused must have an opportunity for at least a "circumscribed form" of cross-examination where he or she is allowed to submit questions to the trier of fact, who will then directly pose those questions to the witnesses. Doe v. Cummins, 662 F. App'x 437, 446 (6th Cir. 2016). " (p18) and "…this court has instead held that the university must provide at least the "circumscribed form" of cross-examination set out in Cummins" (p20)
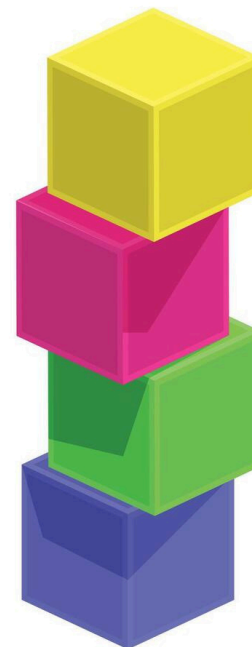
Clery Act

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990

- United States Code 20 U.S. Code § 1092 https://www.law.cornell.edu/uscode/text/20/1092
- VAWA Reauthorization Regulations 2014: https://www.govinfo.gov/content/pkg/FR-2014-10-20/pdf/2014-24284.pdf
- Resources for Clery Compliance: https://www.clerycenter.org/the-clery-act
- Federal Bureau of Investigations Hate Crime UCR (Uniform Crime Reporting): https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/hate-crime
- Regulations at 34 CFR 668.46 (last amended in 2024); and adds reference to VAWA to include "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), and "stalking" as defined in 34 U.S.C. 12291(a)(30).
- Violence Against Women Reauthorization of 2013 (VAWA) amended the Clery Act §668.46 of Title 34 of the Code of Federal Regulations enact the changes.
- https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46 and
- https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs

- Training requirement under the Clery Act is found in § 668.46(k)(2)(ii) reflects what is required by section 485(f)(8)(B)(iv)(I)(bb) of the Clery Act as amended by VAWA.
- Title IV Spending Reauthorization of VAWA 2022, beginning on page 869, Find information about requirement of a Federally developed climate survey for postsecondary school experiences, details. SEC. 1507. Online Survey Tool For Campus Safety beginning on page 959, https://www.govinfo.gov/content/pkg/PLAW-117publ103/pdf/PLAW-117publ103.pdf
- The Clery Act also refers to the Federal Bureau of Investigations (RBI) Uniform Crime Report (UCR) program for reporting data, this allows for comparison of law enforcement data nationwide. More information can be found here: https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/ucr/publications

Title VII

- Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964
- Justice Department discussion of relationship between / overlap of Title IX and Title VII: https://www.justice.gov/crt/title-ix#2.%C2%A0%C2%A0%20Relationship%20to%20Title%20VII
- EEOC Pregnant Workers Fairness Act: https://www.eeoc.gov/pregnancy-discrimination

Prevalence and Prevention Resources

- CDC National Intimate Partner and Sexual Violence Survey (NISVS): https://www.cdc.gov/nisvs/about/index.html (2016/17 data, published in 2023)
- LGBTQ Victim's Assistance Resources: http://avp.org/wp-content/uploads/2019/02/WhyItMatters.pdf
- LGBTQ DV and barriers to reporting https://vawnet.org/sc/rates-and-prevalence-dv-lgbtq-communities
- Community College health outcomes (sexual health and sexual violence): https://cchealthstudy.com/
- College Health and Wellbeing data (American College Health Association): https://www.acha.org/resources-programs/data-solutions-assessments/data-hub/
- Training and Prevention Overview (2021 Conference presentation, 2020 regs)
- Non-profits that provide programming, campaigns, blogs and ideas about healthy relationships, ending sexual violence:
- https://www.nsvrc.org/prevention National Sexual Violence Resource Center (NSVRC)
- https://www.stalkingawareness.org/stalking-behaviors/ Stalking Prevention And Resource Center (SPARC)
- https://stopsexualassaultinschools.org/sexual-assault-k-12-reports/ Stop Sexual Assault in Schools
- http://onestudent.org/ http://www.loveisrespect.org/ http://www.vday.org/home
- Educational materials, resources and ideas:
- http://www.stopbullying.gov/
- Resources for LGBT friendly campus: https://www.campuspride.org/resources/strategies-for-lgbt-campuses/
- Climate Assessment / Data / Evaluation
- U.S. Department of Education(ED) developed the ED School Climate Surveys (EDSCLS) and associated web-based platform. The EDSCLS allows States, local districts, and schools to collect and act on reliable, nationally-validated school climate data (K12) https://safesupportivelearning.ed.gov/edscls

- **The National Assessment of Collegiate Campus Climates (NACCC) is a trio of quantitative surveys on campus racial climate administered annually at colleges and universities across the United States.** https://race.usc.edu/colleges/naccc/
- National Center for Education Statistics (NCES)'s School Survey on Crime and Safety, a nationally representative survey of about 4,800 public elementary and secondary schools. The study was conducted from February 15 to July 19 of 2022.
- And https://nces.ed.gov/admindata/crdc/pdf/AIR-CRDC-Ext-Sources-Brief-508-Dec-2020.pdf
- 2019 - Center for Education Equity report https://maec.org/wp-content/uploads/2019/06/Exploring-Equity-Teen-Dating-Violence-1.pdf

Sample Higher Ed Reports

- https://sites.usc.edu/sopdei/2022/04/01/usc-campus-climate-survey-on-sexual-assault-intimate-partner-violence-domestic-violence-and-gender-and-power-based-harm-in-the-lgbtq-community/
- https://libguides.tulane.edu/c.php?g=517735&p=5817749
- https://ira.virginia.edu/data-analytics/survey-data/campus-climate
- https://udayton.edu/arc/equity_compliance/_resources/2018-equity-compliance-report.pdf

ATIXA Resources

- Ensuring the Parties Have Title IX Process Advisors: https://www.atixa.org/blog/ensuring-the-parties-have-title-ix-process-advisors/
- Who's Who on the Higher Education Title IX Team? (2020 Regulations) https://www.atixa.org/resources/whos-who-on-the-higher-education-title-ix-team/
- ATIXA Title IX Toolkit (TIXKit) Hub: https://www.atixa.org/resources/atixa-title-ix-toolkit-tixkit-hub/
- Understanding Training vs. Prevention Education Requirements Under the Title IX Regulations and VAWA https://www.atixa.org/blog/understanding-training-vs-prevention-education-requirements-under-the-title-ix-regulations-and-vawa/
- You are not a Reasonable Person: https://www.atixa.org/blog/you-are-not-a-reasonable-person/
- Training and Events: https://www.atixa.org/training-and-events-schedule-at-a-glance/
- 20 minutes to...Trained Video Modules: https://www.atixa.org/20-minutes-to-trained-video-modules/
- Mentor Match: https://www.atixa.org/mentor-match/
- Scholarships: https://www.atixa.org/atixa-membership-scholarship-program/

Compliance Categories

Where is our institution at with each of these categories?

Athletics

Policy Development

Supportive Measures

Remedies

Compliance Categories

Pregnancy and Related Conditions

Clery Act: VAWA Section 304

Other Overlapping Laws/Regulations/Case Law/Resolution Agreements

Training (Campus Training, Title IX Team Training, etc.)

Building a Title IX Office/Team

What would be your ideal organizational structure and why? Where would the Title IX Office be best suited within the organization?

What would be the ideal staffing structure?

What political considerations do you need to take into account on your campus?

What financial constraints do you need to consider? Do you have a designated budget? Are you looking at a budget deficit? Are there ways to maximize resources?

Building a Title IX Office/Team

What would an ideal office space look like? Where would it be located? What considerations do you need to think about for balancing visibility and privacy concerns?

What would training look like for the Title IX Team? Are there individuals who are currently trained who just need updates? Are you starting from scratch?

What resources are available to you? Is there a training scholarship on campus? Are there grant funds you can apply for? Can you join forces with other offices on campus who may have more funding to support your efforts? Can you partner with other institutions?

What other considerations do you need to think about?

Building a Title IX Office/Team

How will we fill the following roles:

Title IX Coordinator

Intake Specialist/Coordinator

Dismissal Appeal Decision Maker/Challenge Decision Maker

Investigators

Building a Title IX Office/Team

Informal Resolution Facilitators

Decision Makers

Appeals Decision Makers

Advisors

Live Hearing Facilitator

Creating Collaborations

Answer the following questions to help develop a list of stakeholders that may be included or impacted by your work

Who is impacted by the work in your office?

Who makes decisions about the work and its implementation?

Whose voices need to be included during the process of planning?
Think about: participants, funders, staff, community members, etc.

Who needs to hear the story of your work?

What areas of expertise do you need to do the work? Who can you draw on for that expertise? (This question will likely be revisited as the office development takes shape)

Training Content Planning

What learning outcomes do you desire for your audience?

What content are you required to include? What other content do you think is important to include?

What are some of the values you want to infuse? What messages do you want to emphasize as takeaways?

What other considerations do you want to take into account?

Who is Responsible?

Content Development	Content Delivery
Scheduling	**Reserving Space**
Participant Tracking	Other

Other Considerations

What resources do we have available?

When will the content be delivered?

Will the content be delivered online or in person? By whom or what platform? Is it accessible?

Will content be delivered by team, by class, by gender, random, something else?

age

Sexual Orientation

RELIGION SPIRITUALITY

RACE ETHNICITY

Ability
Physical or intellectual

Gender
SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION

Size

socio-economic status

MY IDENTITY

How has your identity had an impact on interactions with students?

How has your identity had an impact on interactions with colleagues?

How does your identity impact your role within the Title IX Process?

Types of Biases

CONFIRMATION BIAS

When we establish a pre-conceived belief about a person before the meeting and then we look for information to support this belief. This can cause us to have a narrow view of an individual.

ATTRIBUTION BIAS

When individuals make attributions to their or others' behavior. These attributions often does not reflect reality. When we do something wrong or poorly, the tendency is to attribute that to external factors. However, when it comes to others we think the opposite. When a person does something well, we tend to attribute that to external factors and when they do something wrong, we tend to attribute that to their personality or level of intelligence.

BEAUTY BIAS

The unconscious connection between a person's appearance and their personality.

CONFORMITY

The force behind our desire to fit in with the dominant group.

AFFINITY BIAS

The tendency to get along with others who are like us.

HALO/HORN EFFECT

The tendency to allow one strong point that is valued highly to overshadow all other information. When this works in the individual's favor, it is called the halo effect. When it works in the opposition direction, it is called the horn effect.

CONTRAST EFFECT

The process of judging two things in comparison to one another, rather than individually assessing them.

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About the Action Collaborative on Preventing Sexual Harassment in Higher Education

Created in April 2019, the Action Collaborative grew out of a desire among higher education institutions to collaborate and learn from each other as they worked to act on the findings and recommendations from the National Academies' Sexual Harassment of Women report.

Key Recommendations for Higher Education Institutions

A systemwide change to the culture and climate in higher education is required to prevent and effectively address sexual harassment.

- Address the most common form of sexual harassment: gender harassment

- Create diverse, inclusive, and respectful environments

- Diffuse the hierarchical and dependent relationship between trainees and faculty

- Improve transparency and accountability

- Provide support for targets

- Strive for strong and diverse leadership

NATIONAL ACADEMIES *Sciences Engineering Medicine*

Goals of the Action Collaborative

1. Facilitate and inform action on preventing and addressing harassment;

2. Share and elevate evidence-based policies and strategies for reducing and preventing sexual harassment;

3. Advance research on sexual harassment prevention, and gather and apply research results across institutions;

4. Raise awareness about sexual harassment and its consequences, and motivate action to address and prevent it; and

5. Assess progress in higher education toward reducing and preventing sexual harassment in higher education.

Public Resources from the Action Collaborative

Summit: Annual open forum for identifying, discussing, and elevating innovative and promising approaches – Presentation and Materials available online

Publications: Working Groups, composed of representatives from the Member Institutions, work together to gathering information on research and practices and produce publications that can inform and enable action.

Rubric: List of the areas of work that align with the findings and recommendations from the National Academies 2018 report on *Sexual Harassment of Women*

Repository of Work: Collection of the most significant, novel actions that each Action Collaborative institution has taken

NATIONAL ACADEMIES *Sciences Engineering Medicine*

http://nationalacademies.org/sexual-harassment-collaborative

Repository of Work

New Work Shared through the Action Collaborative

- Increased transparency on the range of disciplinary and responsive actions, particularly how decisions are made ([University of Minnesota](#))

- Customized education programs and prevention toolkits for leaders and work groups ([Massachusetts Institute of Technology-1](#), [Massachusetts Institute of Technology-2](#), [Michigan State University](#), [Rutgers University-1](#), [Rutgers University-2](#), [University of California, Berkeley](#) and [University of Michigan](#))

- Anonymous disclosure and reporting systems ([Harvard University](#), [University of Kansas and University of Kansas Medical School](#), and [California Institute of Technology](#))

- Setting up ombuds offices to provide confidential and non-mandatory reporting resources and tools ([International Ombudsman Association](#), [Cold Spring Harbor Laboratory](#), and [Argonne National Laboratory](#))

- Using Climate Survey Data to inform action: identify and reinforce community values ([University of California, Berkeley](#)), inform institution-wide resources ([Harvard University](#)), develop action plans at the departmental level ([Massachusetts Institute of Technology](#)), and inform changes within an organization ([University of Minnesota](#), [Soteria Solutions](#), and [Rutgers University](#))

NATIONAL ACADEMIES *Sciences Engineering Medicine*

Working Group Resources and Publications
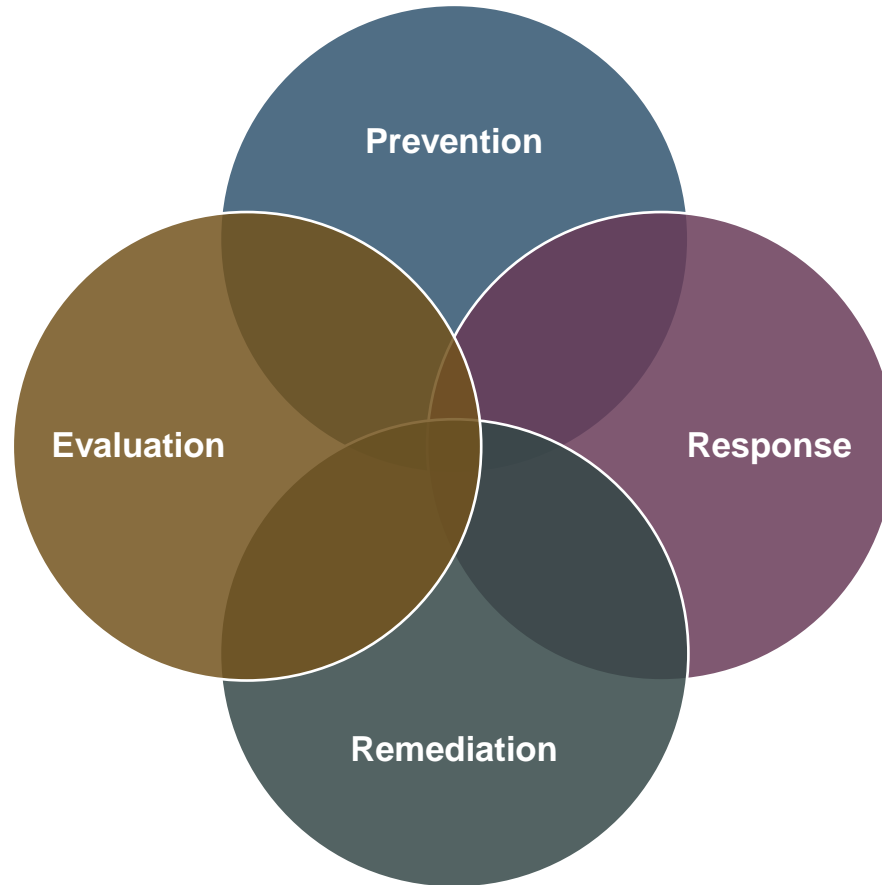
Past Working Group Projects

Prevention

- Applying Procedural Justice to Sexual Harassment Policies, Processes, and Practices **(Published)**
- The Role Civility Promotion Programs Can Play in Preventing Sexual Harassment in Different Higher Education Environments **(Published)**
- Strategies for Developing, Implementing, and Sustaining Sexual Harassment Bystander Intervention Programs for Faculty, Staff, and Graduate Students **(Published)**

Remediation

- Preventing Sexual Harassment and Reducing Harm by Addressing Abuses of Power in Higher Education Institutions **(Published)**
- Preventing Retaliation to Discourage Sexual Harassment **(Published)**

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Past Working Group Projects

Response

- Exploring Sanctions and Early Interventions for Faculty Sexual Harassment in Higher Education **(Published)**

- Exploring Policies to Prevent "Pass the Harasser" in Higher Education **(Published)**

- Innovative Practices: Stop "Passing the Harasser" Policies **(Published)**

Evaluation

- Guidance for Measuring Sexual Harassment Prevalence Using Campus Climate Surveys **(Published)**

- Approaches to the Evaluation of Sexual Harassment Prevention and Response Efforts **(Published)**

Publications Discussed in This Session

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS (2023)

This paper explores different approaches to developing, implementing, and evaluating the efficacy of sexual harassment bystander intervention trainings for faculty, staff, and graduate students.

PREVENTING AND ADDRESSING RETALIATION RESULTING FROM SEXUAL HARASSMENT IN ACADEMIA (2023)

This paper discusses the existing legal protections for retaliation directed at those who experience or report sexual harassment in higher education. It discusses the conditions that enable retaliation to occur, negative consequences of retaliation, and policies and practices that may help prevent retaliation.

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Action Collaborative on Preventing Sexual Harassment in Higher Education

Website:

**nationalacademies.org/
sexual-harassment-
collaborative**

Where to find this paper:

Kuhn, J-U., N. Arain, N., J. Bell, B. Davis, H. Kaiser, D. Madden, G. Prepetit, and K. Williamsen. *Strategies for Developing, Implementing, and Sustaining Sexual Harassment Bystander Intervention Programs for Faculty, Staff, and Graduate Students.* Washington, DC: The National Academies Press. https://doi.org/10.17226/27266.

Project Website: https://www.nationalacademies.org/our-work/bystander-intervention-for-faculty-staff-and-graduate-students

Presentation Overview

Program Commonalities & Bystander Intervention in Academia → **Institutional Examples of Programs** → **Recurring Themes & Lessons Learned**
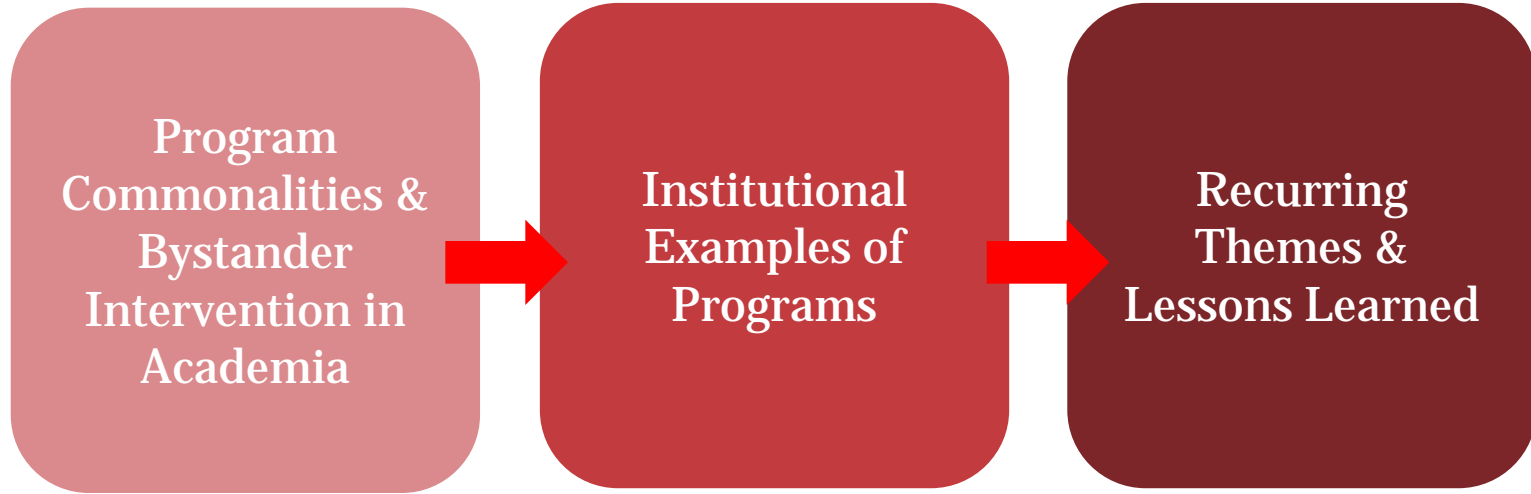
Bystander Intervention

When an individual who observes sexual harassment is able to speak up and/or act in such a way that discourages or resists the harassment that is occurring (Griffith, 2022, Holland et al., 2016)

Responding directly or indirectly

Engaging the person committing the harm, the person who is the target(s), and/or other bystanders

Acting before, during, or after the incident

Bystander Intervention Program Commonalities

Training programs often:

- Take participants through each of the five stages that bystanders encounter when intervening

- Provide opportunities for participants to role-play these skills; and

- Explore options for intervention

Noticing the event or harmful situation
Understanding that the event is a problem
Taking personal responsibility for responding
Deciding how best to intervene
Taking action

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Potential Value of Bystander Intervention Programs

- Helping all members of a community realize that they have a role to play in preventing and disrupting harm

- Developing tangible skills to interrupt individual harms

- Helping to shift culture through establishing and reinforcing healthy social norms and demonstrating intolerance for harassment at the community level

Bystander Intervention in Higher Education

In academia, bystander behavior may be further complicated by:

- Fluid and intersecting power dynamics/identities
  - Position changes (e.g., department chair appointments)
  - Context (e.g., in a meeting vs. in watercooler conversations)

- Social isolation, where individuals are separated from the rest of the institution and siloed in their workplace environment
  - Culture & physical design of faculty, staff, and graduate students' academic environments typically prioritizes individual scholarship and minimal collaboration
  - Minimizes opportunities for institutional accountability & support
  - Can make it challenging to properly identify harassment & feel compelled to intervene

Sample Questions Asked of Institutional Examples

Strategies for a Training Program Focused on Faculty, Staff, & Grad Students

- How did you apply general bystander intervention strategies to faculty, staff, and/or graduate student intervention training?

Institutional Support

- Where did you generate "buy-in," who was involved in generating "buy-in," and what did "buy-in" look like for your program?

Program Evaluations

- What are your program's goals and how do you measure them?

Internal Program Sustainability and External Program Applications

- Who owns the initiative(s)?

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Example 1: Harvard University, Bystander Video Project

- Organized by TIX office (2019)

- Goal: Viewers able to identify their roles in creating a "culture of inclusivity"

- Designed to address issues of gender inequity, actions that contribute to climates at risk for sexual harassment, racial microaggressions, ableism, and power dynamics

    - Input from faculty, staff, & graduate students

    - Involves video vignettes, small group exercises, activities, and feedback

        - Strategies for disrupting, deescalating, and discouraging conduct

- Evaluated by a faculty researcher via pre- and post-session surveys

- Advertised by Office of the President & Provost

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Example 2: University of California-Irvine, Field Safety 201

- Led by TIX office & the University Office of Equal Opportunity and Diversity (2021)

- Goals: educate supervisors & trip leaders on responsibility, and inform students on how to ID inappropriate environments in field work & intervene

- Modeled off UC-Santa Cruz Better Fieldwork Future Workshop

  - Focused on grads; involves discussion of real-world scenarios & discussion on application of intervention skills

  - Addresses general field safety, discrimination, microaggressions, sexual harassment prevention & response, and bystander intervention

  - Faculty, staff, & grad students continuously involved in development, implementation, and evaluation

- Developed by Director of UCI Center for Environmental Biology & CARE office

Example 3: Boston University, Beyond Bystanders

- Funded by the Office of the Provost ARROWS program (2018)

- Goals: provide male STEM graduate students with the skills to ID & interrupt sexual misconduct

- Longitudinal workshop facilitated by male STEM graduate student peers

  - Involves multiple sessions of increasing complexity focused on providing basic frequency/definition information and discussion of scenario-based power differentials

  - Development involved Sexual Assault Response & Prevention office, Graduate Women in Science and Engineering group, ARROWS program members, and WISEGuys graduate student group

- Pre- and post-workshop assessments conducted

Recurring Themes & Lessons Learned

Recurring Themes

1. **Collaborating and Engaging Multiple Stakeholders**

   - Engaging senior leaders, employee and graduate student groups, and other stakeholder groups helps promote bystander intervention even if changes in leadership and roles occur and helps incorporate the ecosystem

2. **Incorporating Voice to Address Power Dynamics, Microaggressions, and Other Challenges**

   - Every program made use of the lived experiences and perspectives of faculty, staff, and/or graduate students, keeping content relevant and helping to build a sense of community trust

   - Engaging peers can directly facilitate a social norm that intervention—not silence—is desired and expected by the community

3. **Follow-up Activities to Promote Norms**

   - Continued revisiting/dedicating resources to follow-up may be able to further promote a norm that sexual harassment is not tolerated by the institution

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Lessons Learned from Program Staff

Developing bystander intervention programs:

- Difficult to generate buy-in from leaders across departments & schools

- Challenging to tailor trainings to the climate of the department, school, lab, etc. without understanding the specific climate and power dynamics of an environment

- Trainings need to account for learners' roles and responsibilities (e.g., faculty members that are mandatory reporters)

Lessons Learned from Program Staff

Implementing and executing bystander intervention programs:

- Limited staffing (sometimes just one person) makes it challenging to implement programs and deliver content effectively

- Need for effective trainers and facilitators

Maintaining and evaluating bystander intervention programs

- Perceived risk of retaliation when intervening can make people more hesitant to engage or use the training

- Challenges in maintaining funding and resources for supporting programs

- Need to evaluate bystander intervention programs and use effective measures

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Conclusions & Call for Research

- More research needed to better understand, identify, and assess factors and strategies for successful programs in complex work environments

- More detailed evaluation efforts are needed to determine effectiveness of these programs tailored to faculty, staff, and graduate students, including around doses, boosters, training

  - How does the design of bystander interventions correlate with changes in bystander behavior and culture change that discourages sexual harassment over the short and long term?

  - Who are the essential people and what are the offices needed to develop, implement, maintain, and evaluate a bystander intervention program for faculty, staff, and graduate students?

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Thank you!

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Preventing and Addressing Retaliation Resulting from Sexual Harassment in Academia

Suggested Citation:
Boyd, L., Hutchison, E., and Tuttle, C. 2023.
Preventing and Addressing Retaliation Resulting from Sexual Harassment in Academia. Washington, DC: The National Academies Press.
https://doi.org/10.17226/27362.

Presentation Overview

Retaliation & Its Effects

→

Challenges in Supporting Claims & Example Scenario

→

Strategies & Promising Practices for Preventing and Addressing Retaliation

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What is Retaliation?

- Retaliation: when an individual experiences an adverse (negative) action or actions as a direct consequence of opposing discrimination, such as by "filing a complaint of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination" (Equal Employment Opportunity Commission, 2015)

  - Examples: job termination, failed grades, exclusions from activities

Retaliation: Scale and Effects
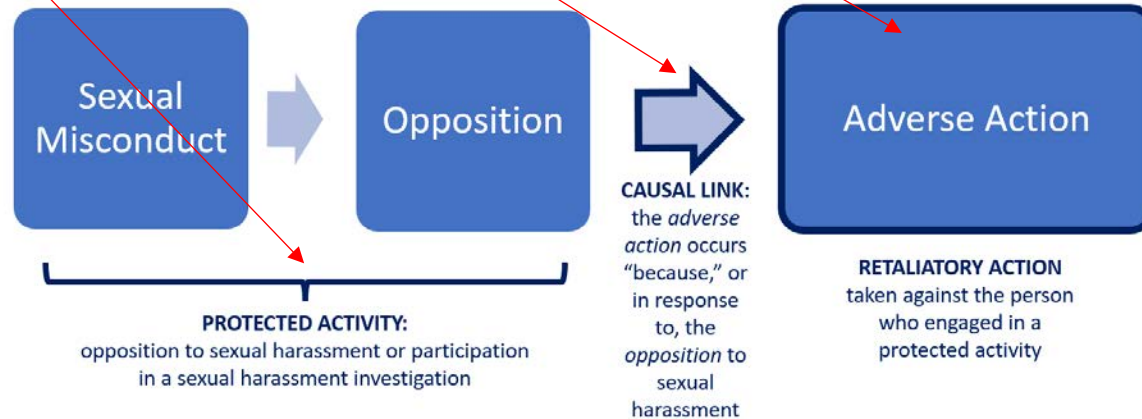
- **Scale**
  - Number of official, annual complaints to EEOC has nearly doubled in last 20 years (EEOC, 2021b)
  - Retaliation complaints make up over:
    - 50% of EEOC complaints (EEOC, 2021a)
    - 24% of Title VI complaints (Office for Civil Rights, 2023)
  - 98% of cases where women reported sexual harassment, also experienced retaliation (Wendt & Slonaker, 2002)
    - 9 out of 10 instances of sexual harassment go unreported (reflects use of informal avenues & underreporting of scale)
- **Effects**
  - Negatively impacts targets professionally, psychologically, and hurts community more broadly
    - Damage to career progression & career stability
    - PTSD, anxiety, and depression symptoms
    - Damage to organizational climate, organizational trust, and can create feelings of Institutional betrayal
  - Applies not only to targets of sexual harassment, but anyone who formally/informally reports or considers reporting (e.g., bystanders, allies)

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Components of Retaliation (Per Law)

1) An adverse action takes place

2) **Because or due to**

3) Target of retaliation engaged in a protected activity by opposing sexual harassment or participating in an investigation of sexual harassment

Sexual Misconduct → Opposition → Adverse Action

PROTECTED ACTIVITY: opposition to sexual harassment or participation in a sexual harassment investigation

CAUSAL LINK: the *adverse action* occurs "because," or in response to, the *opposition* to sexual harassment

RETALIATORY ACTION taken against the person who engaged in a protected activity

Challenges in Supporting a Claim of Retaliation

Challenge #1: Insufficient Evidence To Show a Protected Activity

Challenge #2: The Adverse Action is Subject to Debate

Challenge #3: Insufficient Evidence to Prove the Causal Link Between An Adverse Action & Protected Activity

Example: Adverse Action – Through Professional Evaluation

Graduate Student E has repeatedly experienced sexual harassment from **Advisor F**, and turns to a **Junior Faculty Member G** in the same department to disclose the harassment and ask for advice.

As a mandated reporter, **Junior Faculty Member G reports the harassment to the Title IX coordinator**. **Fearful of Advisor F's response, as they are Junior Faculty Member G's senior colleague**, Junior Faculty Member G never discusses the case with colleagues and is never certain whether Advisor F is aware that Junior Faculty Member G made the initial report.

When Advisor F begins to openly undermine Junior Faculty Member G's contributions in department meetings and in private (e.g., by opposing Junior Faculty Member G's application for a research leave), Junior Faculty Member G suspects this is a form of punishment for making the report.

Faculty Member G, lacking evidence of the motivation behind Advisor F's actions, does not file a complaint of retaliation but rather starts looking for a new position elsewhere.

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Example - Discussion

- Reflects various challenges:

  – Proving Advisor F knew of the protected activity **before** denying leave application

  – Proving the denial of leave is **negative and adverse**, not a neutral event **(Challenge #2)**

  – Proving Advisor F retaliated **because** of the protected activity **(Challenge #3)**

- In an environment where career advancement depends heavily on support from individual faculty and/or administrators, the opportunities for retaliation are extremely varied and can be subtle (e.g., denial of informal privileges such as a semester of leave)

Moving Forward

Going Beyond Legal Compliance

By recognizing the limitations inherent in the legal framework, institutions have an opportunity to develop creative anti-retaliation strategies and solutions—by modifying and/or expanding their current policies and practices in ways that better serve their communities.

Strategies for Responding to Retaliation

Strategies for Preventing Retaliation

Strategies for Responding to Retaliation

1. **Broaden the definition of what is considered an "adverse action"**

   1. Would expand to include not just punitive adverse actions (e.g., poor evaluations) but also passive adverse actions (e.g., refusing recommendations) – any action that "well might have dissuaded a reasonable worker" from reporting

2. **Broaden the definition of what is considered a "protected activity"**

   1. Clarifies that individuals who make formal reports (including bystanders) are not the only ones protected

3. **Create policies on responding to reports made across institutions or extra-institutionally**

   1. E.g., at another university, during an association or agency meeting, at a conference

Strategies for Preventing Retaliation:
Johns Hopkins University Model

Create individualized anti-retaliation plans

1. Provides protection while complaint process is underway

2. Can empower more reports

Key considerations when creating anti-retaliation plans (Johns Hopkins University approach)

1. Initiate when an individual engages in a protected activity & shares concerns of retaliation, or plans to engage in a protected activity

2. Consult individuals who have insight into the responsibilities & interests of both parties

3. Regularly communicate forms of action and institutional responses

Explain the Concept	Understand the Concepts & Players	Collaboration & Coordination	Respect Privacy	Proactive, Not Punitive	Flexibility is Key

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Conclusions

- Much work needs to occur to address, respond to, and prevent retaliatory behavior

- Academia still needs to understand how institutions can best respond to retaliation, what actions and responses are successful, what factors help prevent retaliation, and more

  - How does educating others about the existence of anti-retaliation plans affect the willingness of the target to initiate a conversation?

  - What kinds of anti-retaliation policies and procedures would center and address how retaliation is experienced by the most marginalized individuals in higher education, such as women and men of color, persons with disabilities, and those with sexual orientation and gender identity expression that differs from the majority population?

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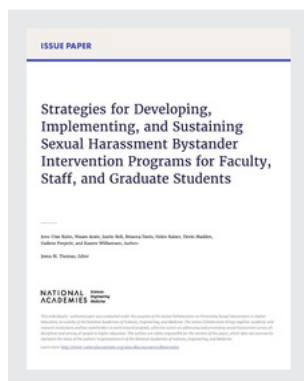# Panel Q&A

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Action Collaborative on Preventing Sexual Harassment in Higher Education

Website:

nationalacademies.org/ sexual-harassment- collaborative

Strategies for Developing, Implementing, and Sustaining Sexual Harassment Bystander Intervention Programs for Faculty, Staff, and Graduate Students (2023)

DETAILS

39 pages | 8.5 x 11 | PDF

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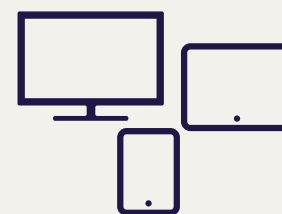
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Strategies for Developing, Implementing, and Sustaining Sexual Harassment Bystander Intervention Programs for Faculty, Staff, and Graduate Students

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Contents

Introduction

To address the persistent problem of sexual harassment within higher education, research suggests that environments need to convey that sexual harassment is not a norm and actively discourage it when it does occur. One approach that researchers have identified as helping to create such environments is bystander intervention programs, which prepare and equip individuals to interrupt and intervene when harassing behavior occurs (Banyard, 2015; Holland et al., 2016; NASEM, 2018).

Historically, much of the research on bystander intervention in academia has focused on improving bystander behaviors in undergraduate populations.[1] Only recently have organizations' interest in and attention to bystander intervention trainings that focus on workplace environments affecting faculty, staff, and graduate students increased (Griffith et al., 2022), even though these populations also experience and witness sexual harassment (NASEM, 2018).

The lack of bystander intervention resources specifically catered to faculty, staff, and graduate students may be attributed to the complex work environments that make it hard for individuals to intervene. For instance, research shows that individuals' relative power can vary in different situations in the academic workplace. Differences in social identities (career, gender, race, etc.) can affect how an individual's relative power changes in one situation compared with another (Banyard, 2015; Kleinman and Thomas, 2023), which can make it challenging for individuals to determine how and when to intervene (Haynes–Baratz et al., 2021). The ever–changing roles of power, such as a university administrator returning to a faculty role, also create an environment that makes individuals less willing to intervene because of fear of retaliation, inconsistency of social norms or policies, and so forth (Haynes–Baratz et al., 2021). Additionally, the isolated academic environments typically experienced by faculty, staff, and graduate students can make it challenging to identify, recognize, and feel compelled to intervene when sexual harassment, incivility, bullying, and microaggressions occur—the latter of which is particularly hard to identify because they can present as subtle, indistinct biases (Haynes–Baratz et al., 2021).

The 2018 National Academies of Sciences, Engineering, and Medicine report *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine* noted that, despite these complexities, institutions would benefit from engaging all levels of their organization to endorse a culture that promotes the prevention of sexual harassment and enforces relevant policies and procedures. Building on this recommendation and hoping to close the research gap in bystander intervention trainings in higher education, the Prevention Working Group in the National Academies' Action Collaborative on Preventing Sexual Harassment in Higher Education sought to provide a review of past literature, highlight a set of current programs, and point to areas of research needed to advance this topic; all of which could guide institutions that are exploring, developing, and implementing bystander intervention programs for faculty, staff, and graduate students. The Action Collaborative is a group of more than 50 academic research institutions that are working toward targeted, collective action on addressing and preventing sexual harassment across all disciplines and among all people in higher education. The collaborative includes four

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[1] *Bystander behavior* is understood as the factors that "lead to an individual's decision to intervene or not when someone needs help" (Banyard, 2011, p. 217).

1

working groups (Prevention, Response, Remediation, and Evaluation) that identify topics in need of research, gather information, and publish resources for the higher education community.

This Issue Paper focuses on bystander intervention for faculty, staff (including postdoctoral trainees), and graduate students, and specifically for sexually harassing behaviors more frequently found in higher education workplaces (i.e., gender harassment), and other bias and discriminating behaviors. This paper also explores bystander intervention training approaches that are designed for the complex work environments within higher education, and considers how to apply the principles of bystander intervention to the experiences and environments of faculty, staff, and graduate students. To understand how institutions are addressing the gap in bystander intervention training for this population, institutions within the Action Collaborative were identified as having bystander intervention programs that focused on the experiences of faculty, staff, and graduate students. We asked these institutions a standard set of questions to learn about their experiences with commitment and buy-in from leadership, details on how the trainings were developed and what audience it was targeted to, and how the training programs were evaluated (see Box 1-1). The paper summarizes responses from seven of these institutions and ends with a call for additional research and action in several areas, including evaluation of the effectiveness of bystander intervention programs, with the aim of compelling readers and funders to prioritize work on these topics.

Some aspects of the statement of task were not fully addressed. For example, one of the original goals of this paper was to provide a tool for those who are interested in creating and implementing prevention programs. Another was to identify factors that made the programs effective or successful. The information collected and analyzed from the literature review and the information from the seven programs showed that programs were created for specific needs (i.e., there is no one-size-fits-all approach) and the measures of effectiveness and success are still being developed. As a result, this paper does not provide "how to" guides or tools for creating and evaluating a bystander intervention program. Nonetheless, the shared experiences (see Boxes 1-2 through 1-8) provide a potentially valuable "lessons learned" resource. Finally, in our Call for Research section, we focus academics and funders toward specific areas of research such as the evaluation and sustainability of the trainings.

We hope this paper provides faculty, staff, advocates, and those in higher education who implement prevention programs with resources, information, and important questions to consider when developing, implementing, adapting, or improving bystander intervention efforts for faculty, staff, and graduate students. Moreover, we hope it serves to build awareness of how some institutions are creating, maintaining, and evaluating bystander intervention training programs for faculty, staff, and graduate students and to understand what is needed for implementing a program similar to the institutional examples.

Bystander Intervention

What Is It and What Are Factors That Affect Bystander Behavior?

In the context of sexual harassment, bystander intervention occurs when an individual who observes sexual harassment is able to speak up and/or act in such a way that discourages or resists the harassment that is occurring (Griffith, 2022; Holland et al., 2016). Bystanders can intervene as a response to bias, microaggressions, and/or harassing behaviors with the goal of interrupting and discouraging the harm that may occur in the incident (Griffith, 2022; Holland et al., 2016). Researchers have outlined a set of five consecutive steps that lead to action by a bystander: by first noticing the event or harmful situation, then understanding that the event was a problem, taking personal responsibility for responding to the event, deciding how best to intervene, and ultimately taking action (Banyard, 2011, 2015; Latané and Darley, 1970). There are also multiple ways for a bystander to intervene (Holland et al., 2016):

- Responding directly (e.g., stopping the person committing the harm) or indirectly (e.g., getting someone else to directly intervene or helping the person who is the target),

- Engaging the person committing the harm, the person who is the target(s), and/or other bystanders, and

- Acting before, during, or after the harmful incident

Many factors influence a bystander's willingness to intervene. Early research indicates that bystander intervention usually occurs when bystanders are among those with whom they feel comfortable (e.g., friends; Levine and Crowther, 2008; Levine et al., 2005), consider people who have been harmed as members of their in-group (Christy and Voigt, 1994; Levine and Crowther, 2008; Levine et al., 2005), and identify people who are committing harm as unfamiliar (e.g., strangers; Fischer et al., 2006; Shotland and Straw, 1976). Individuals' willingness to intervene is also affected by their attitude toward discouraging sexual harassment (Banyard, 2008; Banyard and Moynihan, 2011), emotional arousal (Batson et al., 2007; Dovidio, 1991; Fischer et al; McMahon, 2010; 2006 Potter et al., 2011), assessment of individual cost-risk (Banyard, 2008; Banyard and Moynihan, 2011; Brown and Yufik, 2009), and gender (Banyard, 2008; Burn, 2009; Elias-Lambert et al., 2023). Studies also show that individuals will intervene if they have increased understanding of sexual assault (Banyard, 2008; McMahon, 2010), strong personal beliefs that do not support rape myths (Elias-Lambert et al., 2023; Frese et al., 2004; Frye, 2007; McMahon, 2010), and a deep sense of responsibility to act (Banyard and Moynihan, 2011; Burn, 2009; Latané and Darley, 1970).

By engaging other witnesses of a harmful incident, bystander intervention can motivate the broader community to assume responsibility in addressing sexual harassment and promoting "a culture of support, not one of silence" (National Academies, 2018, p. 176). Research shows that individuals who demonstrate bystander behavior serve as models of positive helping behavior and create new social norms for how a community should respond to sexual harassment (Banyard, 2011; Banyard et al., 2004). Additionally, academic communities that endorse bystander intervention help "to create a culture where abusive behavior is seen as an aberration, not as the norm" (National Academies, 2018, p. 176).

Bystander Intervention Programs

What Are They, How Do They Work, and What Is Their Value?

Bystander intervention training programs typically build on the work of Latané and Darley (1970), which provides a framework for understanding bystander behavior. Furthermore, training programs take participants through each of the five stages that bystanders encounter when intervening (as described above), explore options for intervention (such as the 3 D's: direct intervention, distraction, delegation or Four Ds: direct, distract, delegate, and delay), and provide opportunities for participants to role-play these skills (Banyard et al., 2005; Berkowitz, 2002; Coker et al., 2015). These trainings have most frequently been deployed with undergraduate students as prevention programing related to sexual assault. Bystander intervention training programs typically teach participants to (a) recognize problematic situations, (b) effectively intervene to reduce the likelihood of harm, and (c) speak out against attitudes that support or condone problematic behavior (Bush et al., 2019).

These skills-based programs generally work from the premise that all members of a community have a role to play in preventing and disrupting harm, approaching participants as people who are potential allies, as opposed to those who are potential targets or committing the harm (Banyard et al., 2004). This prevention strategy shows promise both for its utility in developing tangible skills to interrupt individual harms and for its role in helping shift culture through establishing and reinforcing healthy social norms (Leone et al., 2018).

The National Academies' 2018 *Sexual Harassment of Women* report notes that prevention tools, such as bystander intervention training, can help individuals and institutions identify and respond to biases that turn into problematic behaviors. Bystander intervention programs have the potential to create change in an institutional climate by adequately preparing individuals who may witness sexual harassment to recognize and disrupt problematic behavior, demonstrating intolerance for harassment at the community level (Banyard, 2015; Elias-Lambert et al., 2022; Holland et al., 2016). These training programs typically equip participants with the skills to intervene in situations by creating awareness of harassment and uncivil environments, motivating participants as potential bystanders to step in and take action, giving participants options for how to intervene, and providing resources to support these actions (Feldblum and Lipnic, 2016). In the workplace setting, bystander intervention training programs have been identified as showing "significant promise for preventing harassment in the workplace" (Feldblum and Lipnic, 2016). Among college students, education on bystander intervention has shown to increase knowledge and understanding of sexual harassment, minimize beliefs of rape myths, and increase the chances for bystander intervention behavior to occur (Banyard et al., 2004, 2007; NASEM, 2018).

The Ecological Framework of Bystander Intervention

A bystander's ecosystem greatly influences whether or how an individual intervenes. Building on previous ecological system theories (Bronfenbrenner, 1977; Heise,1998), research has suggested that a bystander intervention framework should consider not only an individual's most direct environment, or the peers associated in the bystander's microsystem (i.e., those involved in a proximal situation), but also an individual's entire ecosystem and all the interconnected relationships that play a role in that ecosystem

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(Banyard, 2011, 2015; McMahon, 2015). Beyond the peer circle, individuals play a role and are influenced by those in their exosystems and macrosystems, that is, their "communities and the wider society" (Banyard, 2011). For instance, faculty members influence (and are influenced by) peer faculty members, in addition to their department chair (exosystem) and the overarching values and culture of their institution (macrosystem).[2]

The relationship between the individual and those involved with the various layers of their ecosystem can hinder or promote bystander intervention (Banyard, 2011; McMahon, 2015; McMahon et al., 2017). For example, individuals can be more willing to intervene if peer expectations are to discourage inappropriate behaviors. On a larger scale, if trust between an individual and those in the community exists, including trust that leaders in the community will support intervention and resist retaliation, bystanders are more likely to intervene (Banyard, 2011; McMahon, 2015). Hence, a holistic understanding that accounts for "aspects of different cultures, communities, or peer groups that may promote or hinder" (Banyard, 2011, p. 226) bystander behavior can help with developing effective and robust bystander intervention training programs. Specifically, program staff developing training programs can account for five major factors that have been shown to promote bystander behavior across the various environmental levels of the ecosystem (McMahon, 2015):

- Social norms (bystanders are more likely to intervene if the harassing behavior contradicts established norms)

- Sense of community (such as increased levels of trust and social cohesion within the community that encourages intervention)

- Prosocial modeling (modeling of bystander behaviors by others, including leaders and/or those with more power)

- Policies and accountability cues (policies and practices that hold individuals accountable also discourage sexual harassment and can set a tone that encourages intervention)

- Physical environment (the architectural design and social organization of the community can promote bystander intervention behavior)

Complexities of Institutional Ecosystems

Examining the academic workspace using an ecological framework can reveal the complexities of the environments that faculty, staff, and graduate students exist in and how this can affect their ability or willingness to intervene (i.e., graduate or medical students and power imbalances that may serve as a barrier to their intervening). Perception of the power differences in the various relationships encountered in the academic workplace can change based on different identities (gender, race, class) or vulnerabilities

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[2] Climate surveys can be used to explore the culture and values of an institution. See, for example, a guidance document authored by Evaluation Working Group of the Action Collaborative on Preventing Sexual Harassment in Higher Education. Available here: https://www.nationalacademies.org/news/2021/09/guidance-for-measuring-sexual-harassment-prevalence-using-campus-climate-surveys.

(Cole, 2009; Fitzgerald and Cortina, 2018; Kleinman and Thomas, 2023; Sutton et al., 2021). For instance, a department chair who is a Black woman may have more career-based power in a department meeting, but then hold less power in a hallway conversation with a faculty member who is a white man. Changes in relative power across different scenarios can discourage an individual to intervene because of lack of trust in leadership supporting bystander interventions, changes in social norms, and the isolated environments that prevent bystanders from feeling supported by their community (Haynes-Baratz et al., 2021; Linder, 2018). These effects parallel the five factors, listed above, that influence bystander behavior.

The fluidity in power dynamics in the academic workplace, resulting from changes in positions (e.g., department chair appointments), can also affect bystander behavior because leadership changes can change culture (and subsequently social norms), trust in the community, policies and practices, and more (Elias-Lambert et al., 2022; Haynes-Baratz et al., 2021). For instance, if a department chair demonstrates microaggression[3] but is going to return to a faculty role in the coming months, a bystander may opt not to intervene knowing that the power dynamic will soon change.

Finally, the social isolation resulting from the academic environments where individuals are separated from the rest of the institution and siloed in their workplace environment (e.g., the lab, a department or unit) can also hinder bystander intervention. The culture, and even physical design, of faculty, staff, and graduate students' academic environments typically prioritizes individual scholarship and minimal collaboration, thereby contributing to still-siloed, isolated workplace environments (Haynes-Baratz et al., 2021; Kolowich, 2010). Not only does the siloed nature of workplaces discourage interdisciplinary collaboration and research (Kolowich, 2010), but it also minimizes opportunities for institutional accountability and support when faculty, staff, and graduate students face uncivil environments and harmful situations that may require intervention (Haynes-Baratz et al., 2021). Furthermore, the isolation and lack of community support experienced by these individuals can make them feel less inclined to intervene. For instance, when addressing microaggressions, which are hard to identify because they are subtle and nuanced, faculty have shown it helpful to have peers or others in the community verify that a microaggression has occurred (Haynes-Baratz et al., 2021) to intervene; however, the siloed nature of faculty, staff, and graduate students' environments can make it challenging for them to properly identify such aggressions and feel compelled to intervene. Research shows that historically minoritized college students were more likely to intervene as bystanders if training programs were backed by institutional policies and response services that strove to provide support, increase trust, and protect against retaliation (McMahon, et al., 2020). Similar to how college students benefit from services demonstrating the support of the institution, those who are particularly isolated in the academic environment (such as faculty, staff, and graduate students) could also benefit from having resources and support services that address the nature of their environment and are specifically catered to them.

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[3] In this context, *microaggressions* is defined as "brief and commonplace daily verbal, behavioral, and environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative slights and insults towards members of oppressed groups" (Sue, 2010, p. 271).

Institutional Examples for Addressing the Challenges of Bystanders by Accounting for the Ecosystem

This paper aimed to identify and explore existing bystander intervention programs that took the complexities and power dynamics of the higher education ecosystem into account. The authors' approach was to review the annual reporting of actions taken and descriptions of work by the members of the Action Collaborative on Preventing Sexual Harassment in Higher Education and the Partner Network comprising about 75 different institutions. After identifying the set of relevant programs, program staff were asked to answer a set of questions developed by the authors (Box 1–1). Seven institutions were identified as having bystander intervention programs that were specifically developed for faculty, staff, and graduate students, and who provided answers to the questions. This set of seven are listed below:

- Harvard University (Box 1–2)

- University of California, Irvine (Box 1–3)

- Rutgers University (Box 1–4)

- Icahn School of Medicine at Mount Sinai (Box 1–5)

- Boston University (Box 1–6)

- University of California, San Diego (Box 1–7)

- Wellesley College (Box 1–8)

The questionnaire was developed by the authors of this paper as a mechanism to consistently interview the program staff on what was required to initiate a program, how their program was developed, and how it was evaluated. The goal was to provide useful information from those who have developed programs to other institutions interested in building and launching their own programs, recognizing that tailored approaches are needed for each specific context. This paper ends with a list of research areas that could fill gaps in identifying best practices for developing and implementing the training programs, determining the characteristics of an effective training program, and assessing the effectiveness of bystander intervention training programs (both for those who have taken the training and its effect on reducing sexual harassment within an institution).

BOX 1-1

Questions about Bystander Intervention Programs at Seven Higher Education Institutions

1. **Leadership and Institutional Support**
   a. Where did you generate "buy-in," who was involved in generating "buy-in," and what did "buy-in" look like for your program?

   b. Who, from an institutional leadership standpoint, needs to be involved in championing bystander intervention programs and how should they be involved in the program (e.g., should leadership be involved in the program? If so, how?)?

      i. If institutional leadership supported and/or promoted the bystander intervention program, how did the program(s) at your campus(es) benefit?

   c. To ensure the sustainability of bystander interventions that serve all campus communities (including grad students/faculty/staff), how does your institution fund, organize, and deliver trainings?

2. **Development**
   a. How does your program specifically help faculty, staff, and/or graduate students to intervene? How did you apply general bystander intervention strategies to faculty, staff, and/or graduate student intervention training?

   b. How can other institutions apply your program for faculty, staff, and/or graduate students?

   c. Players involved:

      i. Who owns the initiative(s)?

      ii. Who conducts the training(s)?

      iii. Who needs to be consulted on content?

   d. How did you include those working and/or those interfacing with faculty, staff, and/or graduate students (deans, undergraduate students, etc.) into the training?

3. **Postdevelopment Resources, Evaluation, and Application**
   a. How do you keep content relevant for different audiences within the institution?

   b. What are your program's goals and how do you measure them?

      i. Are there things you have already measured and found, and what are the findings there?

   c. What factors make your program effective or successful?

   d. What are the supportive resources you can make available to participants after trainings?

Responses to the questions are summarized in the following sections and organized into four categories, or topic areas:

1. "Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students" – This category details various characteristics of the program that are specific to faculty, staff, and graduate students (e.g., having a focus on microaggressions and/or power differentials). It also highlights training methods, support services before or after the program, and specific ways the program engages those groups in the development, implementation, and evaluation of the program.

2. "Institutional Support: Who and What Is Needed" – This category highlights who is involved in the program, what offices and leaders are needed, how leaders show support, and other resources that the institution can provide to facilitate the program (e.g., coordination across offices, sources of funding).

3. "Program Evaluations" – This category gives an overview of the surveys and/or evaluation methods used for the program.

4. "Internal Program Sustainability and External Program Applications" – This category highlights next steps institutions may have planned to expand their program and/or methods that program staff have flagged that could be helpful for other institutions.

Harvard University, "Bystander Video Project—How We Speak Up: Creating a Culture of Inclusivity"[a]

Harvard University created a suite of video vignettes (organized by the university's Title IX Office) to address issues of gender inequity, actions that contribute to organizational climates at risk for sexual harassment, racial microaggressions, ableism, and power dynamics. Each vignette offers bystander intervention strategies for disrupting, deescalating, and discouraging such conduct, which viewers can use in the places where they learn, live, and work. Ultimately the goal of the program is for viewers to be able to identify their roles in creating a "culture of inclusivity" while recognizing common barriers/successful strategies. The trainings promote "speaking up" among stakeholders and highlight strategies to address offensive comments and behaviors. At the core of Harvard's program is faculty investment and high-level administrative support. The program began in mid-2019 and is administered through the Harvard Office for Gender Equity (OGE), with collaborative support from the university's equity, diversity, and inclusion leaders.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students
The content of Harvard's program is designed with input from faculty, staff, and graduate students. Harvard staff serve as actors in the videos, which requires approval and support from supervisors. Additionally, faculty involvement was particularly essential in developing content for small group exercises, activities, and feedback on how to improve the sessions. Not only does their engagement ensure that content remained relevant, but it also helps with gaining faculty buy-in. A Harvard research faculty member also serves as a primary investigator of the program's evaluation portion, which lends additional credibility and allows for further development and revision of the program. Additionally, resource guides and brochures, including information on accessing confidential counseling resources, are made available to participants after the trainings for future referencing.

Institutional Support: Who and What Is Involved
Other institutional leaders also take a part in developing and maintaining Harvard's program, collaborating with and supporting the efforts of the faculty, staff, and the OGE and Office of the Provost staff already involved in the program. Equity, Diversity, and Inclusion leaders are consulted on the video content and overall training components. Additionally, the Office of the President and Provost uses university-wide messages to increase awareness of and interest in participation by academic departments.

Program Evaluations
Harvard's program utilizes formal and informal evaluation before, during, and after the program to ensure the content of the training is relevant to the participants. Presession surveys are sent out to participants, to identify potentially relevant scenarios for an upcoming training. Additionally, a survey is sent out (and is due to be analyzed in 2023) to all benefits-eligible staff and faculty to determine the potential effect of the bystander intervention training components.

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[a] For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-1/bystander-videoproject-how-we-speak-up-creating-a-culture-of-inclusivity-harvard-university.pdf.

Internal Program Sustainability and External Program Applications

Harvard's team plans to expand the program to include measuring the application of these strategies in the workplace, as well as the application/differentiation of them to the specific lived experiences and backgrounds of faculty, staff, and graduate students. The team encourages other institutions to identify interested, invested, and high-profile faculty whose attachment to the program will signify its credibility to others at the institution. They believe that this high-profile faculty involvement, coupled with high-level administrative support, increases awareness of and interest in participation by academic departments that otherwise might not feel that making time for such a program is warranted.

Harvard University, "Bystander Video Project—How We Speak Up: Creating a Culture of Inclusivity," initiated mid-2019

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	Promote "speaking up" strategies to address offensive comments and behaviors among faculty, staff, and graduate students; direct faculty involvement, and feedback from them
Institutional Support: Who and What Is Involved	Faculty investment, especially in training development, and high-level administrative support and promotion (especially Equity, Diversity, and Inclusion leaders)
Program Evaluations	Presession surveys, and a specific survey to all benefits-eligible staff and faculty, to assess creation of a "culture of inclusivity," while recognizing common barriers/successful strategies
Internal Program Sustainability and External Program Applications	Formal and informal evaluation to ensure participant relevance/differentiation to lived experience/application; high-level administrative faculty and leadership support to lend credibility

University of California, Irvine, "Field Safety 201: Preventing and Managing Discrimination, Sexual Harassment, and Sexual Violence in the Field"[a]

The University of California, Irvine (UCI) created and implemented a 6-hour sexual harassment workshop specifically for science graduate students doing field work. UCI developed their training program around specific outcomes that were a priority to the institution: (1) to educate supervisors and trip leaders on their responsibility in responding to and preventing discrimination and microaggressions and (2) to inform students on how to identify inappropriate environments in field settings and how to intervene. The program is modeled off another initiative, the UC Santa Cruz Better Fieldwork Future workshop, and uses the Green Dot Bystander Intervention Training to help participants learn how to become effective bystanders. By engaging participants in real-world scenarios, this workshop covers general field safety, discrimination and microaggressions, sexual harassment prevention and response, bystander intervention, and more. UCI's program creates space for faculty, staff, graduate students, and other stakeholders to have a voice in the development, implementation, and evaluation of the training program to ensure that the content and design is relevant and useful for participants. This program, initiated in early 2021, is jointly led by the University Office of Equal Opportunity and Diversity (OEOD) and the Title IX Office.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students

UCI focuses on a particular audience—graduate student scientists doing field work—when it develops relevant and useful content for participants. The program engages and collaborates with stakeholders (faculty, graduate students, field research staff, land management specialists, OEOD/Title IX Office) to ensure that the content is accurately developed. A diverse and collaborative working group consisting of faculty, staff, and graduate students helps with developing program content based on real-world experiences. The working group takes part in providing feedback on the development, implementation, evaluation, and continued application of the program to other areas of the institution (e.g., a bystander intervention training for faculty trip leaders that will be launched in 2023). Building on the Green Dot Bystander Intervention Training and the Better Fieldwork Future model, UCI's program provides real-world scenarios developed by the working group to help participants learn how to apply intervention skills to experiences they might be familiar with in their environments. Portions of the workshop, including the scenarios presented during the workshop, are led by all the members of the working group, including faculty, staff, graduate students, and OEOD/Title IX representatives.

Institutional Support: Who and What Is Involved

Recognizing that graduate students in field research are in need of resources to address discrimination and sexual harassment in their environments, the Director of the UCI Center for Environmental Biology worked with the OEOD/Title IX Office to develop this program. With this in mind, UCI's program had leadership support from its genesis. In addition to the collaboration of all the parties represented in the working group and the support of various offices in the institution, the program engages campus offices and representatives of the Campus Assault Resources and Education (CARE) office, who serve as trainers and advocates for survivors of sexual violence.

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[a] For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-3/university-of-california-irvine-field-safety-201.pdf.

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Program Evaluations

Program evaluation is delivered by a faculty leader and is focused on assessing participant learning, learning retention at 3 months and 9 months, program strengths/weaknesses, organizational capacity, and recommendations for program development. The evaluations are in survey form and consist of the Likert scale, multiple-choice options, and open-ended questions.

Internal Program Sustainability and External Program Applications

UCI's program staff found that engaging and collaborating with multiple stakeholders, including graduate students, faculty, and staff, to develop, implement, and evaluate the program promotes "buy-in" from the institution, which also helps with sustaining the program. The program team is exploring requests to expand the training to faculty populations and other departments conducting field work.

Internal Program Sustainability and External Program Applications

UCI's program staff found that engaging and collaborating with multiple stakeholders, including graduate students, faculty, and staff, to develop, implement, and evaluate the program promoted "buy-in" from the institution, which also helped with sustaining the program. The training program team is exploring requests to expand the training to faculty populations and other departments conducting field work.

University of California, Irvine, "Field Safety 201: Preventing and Managing Discrimination, Sexual Harassment, and Sexual Violence in the Field," initiated early-2021

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	A focus on a specific population (science graduate students doing field work), utilizing and applying existing trainings
Institutional Support: Who and What Is Involved	Developing collaboration by, and support from, the Office of Equal Opportunity and Diversity (OEOD); the Title IX Office; and a working group of faculty, staff, and graduate students
Program Evaluations	Faculty leader-led surveys, focused on retention, application, and feedback
Internal Program Sustainability and External Program Applications	Engaging and collaborating with multiple stakeholders across the institution to develop, implement, and evaluate; considering how to apply trainings for faculty populations and other departments conducting field work

BOX 1-4

Rutgers University, "Trauma-Informed Bystander Intervention Workshops for Faculty and Staff"[a]

In 2022, Rutgers University held bystander intervention workshops, which required engaging with faculty and staff before and after the workshop to understand their needs. The program, initiated in late-2019, was designed and developed to resolve a specific problem that was surfaced by Rutgers University departments and schools: although various campuses of the university knew that sexual harassment was a problem, there was a lack of awareness or understanding for how faculty, staff, and graduate students could intervene (and the concrete skills required) when it occurs. The program leverages an existing bystander intervention strategy used by the university, called the Hollaback! 5D strategy,[b] to offer a variety of intervention strategies for faculty, staff, and graduate students. Additionally, Rutgers' program takes into account power differentials and anti-oppression frameworks, which deeply affect the rigid hierarchies and environments of faculty, staff, and graduate students. Conversations around power and oppression are built into the skills-practice opportunities. The program also emphasizes preventative practices and procedures (e.g., microaggression intervention practices and prevention toolkits) to take steps to reduce the risk of sexual harassment. Program staff find that an essential component for sustaining the program is having an extensive collaboration across multiple university offices and stakeholders. Staff also see the value of collaboration, which helped minimize the negative consequences across academic silos, creating support for isolated faculty, staff, and graduate students and increasing their willingness to intervene. This program is administered by the Victims of Crime Act (VOCA) Grant (administered through the Center for Research on Ending Violence) and the University Office of the Executive Vice President for Academic Affairs.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students

Based on the specific needs of faculty and staff across various schools, departments, and units, the VOCA Grant Staff and Training Coordinator develops and conducts individualized bystander intervention workshops and trainings that cater to each audience. In partnership with the Vice President for Academic Affairs, the Training Coordinator of Rutgers' program also meets with deans, chairs, and directors to detail the institutional policies that support both the program and the faculty, staff, and graduate students by creating a safe environment that promotes bystander intervention. Finally, once the workshop is finished, the Training Coordinator provides support and resources to faculty and staff who hope to intervene in "real-time issues" (Rutgers University, 2022).

Institutional Support: Who and What Is Involved

By offering a desired solution to an identified gap in training, Rutgers' program is able to generate buy-in and commitment across the institution. The Rutgers' program uses resources like campus climate surveys and the National Academies' 2018 report to show the value of supporting and enabling a bystander intervention program specifically for their faculty and staff. Additionally, with the support of the Vice President of Academic Affairs, program staff were able to create partnerships with campus stakeholders who would promote the program and speak to its importance. These partnerships include the Title IX Office, the University Equity and Inclusion Office,

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[a] For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-3/rutgers-university-trauma-informed-bystander-intervention-workshops-for-faculty-and-staff.pdf.

[b] The nonprofit "Hollaback!" has changed its name to "Right to Be," which still offers the 5Ds of Bystander Intervention Training. For more information on Hollaback!, see https://righttobe.org/.

the Center on Research to End Violence (in the Rutgers School of Social Work), and those in leadership positions on the campus. Many offices of the university are consulted when developing content and resources for the training program: the VOCA Grant Advisory Board, SVP for Academic Affairs, Title IX Office, Rutgers Office of Employment Equity, University Equity and Inclusion Office, and Office for Violence Prevention and Victim Assistance.

Program Evaluations

Rutgers' program is currently evaluated based on post-training participant satisfaction. Eventually, the Rutgers' team hopes to evaluate workshop participants on their perceived ability to intervene. The team is developing a measure for assessing individuals' likelihood to practice bystander behavior in the future.

Internal Program Sustainability and External Program Applications

To maintain Rutgers' program, the staff found it essential to sustain collaboration across the multiple stakeholders involved in the program.

Rutgers University, "Trauma-Informed Bystander Intervention Workshops for Faculty and Staff," initiated in late 2019

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	Demonstrate the need for prevention in departments and respond to their needs in development; leverage an existing strategy and consider power differentials and anti-oppression frameworks in skills-practice opportunities
Institutional Support: Who and What Is Involved	Share resources that demonstrate the importance of similar programs and identify partners across campus who can promote the program and speak to its importance
Program Evaluations	Post-training evaluations for participant satisfaction; hope to include measures on perceived ability to act
Internal Program Sustainability and External Program Applications	Collaboration is key to sustainability

BOX 1-5

Icahn School of Medicine at Mount Sinai, "Microaggressions 101: Taking Action"[a]

In early-2021, the Icahn School of Medicine at Mount Sinai (ISMMS) leveraged and adapted the ACTION framework[b] to develop a training that was initially offered to faculty and staff from across the school community, with no specific focus on a particular department or unit. Based on the success and positive reception to the early stages of this work, requests by departments and units led to the program staff tailoring the curriculum to meet the needs of the departments and units—and the faculty and staff in those environments—requesting the training. The trainings help faculty, staff, and graduate students practice skills related to addressing microaggressions across a diversity of identities while creating space to acknowledge common challenges people confront when considering intervening. The program gives participants an opportunity to work with one another through small groups to address fictional situations that may require intervention, and to process through barriers that may prevent intervention. By acknowledging challenging situations, such as those that contain perceived power differentials, the program strives to equip attendees with practical skills that aim to foster a more equitable environment. The program is housed in the Office of Gender Equity in Science and Medicine and the Office for Diversity and Inclusion, two offices under the purview of the Dean of the School of Medicine.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students
Because ISMMS is a medical school, all the trainings are for faculty, staff, and graduate students working specifically in academic science and medical environments. The training is skills based and focuses on helping individuals find language that feels most comfortable to them when addressing microaggressions. The program staff consult with department or unit leadership to tailor the training curriculum to the needs of the participants. Program staff also share supportive resources and make information available to participants after the training, including material for continued learning on the topic.

Institutional Support: Who and What Is Involved
Leaders of ISMMS have been vocal in the need to prioritize discussions and action around concepts of diversity and inclusion. The Office of Gender Equity and the Office for Diversity and Inclusion co-sponsor the trainings and are responsible for developing as well as administering the content. Chairs and leaders of departments have articulated their appreciation of the program and frequently request trainings to improve their local environments.

Program Evaluations
ISMMS utilizes a post-training evaluation that asks participants to self-assess their knowledge or attitude changes, and whether they have been confident to apply the intervention strategies. Thus far, evaluations have been positive with the majority of the participants indicating that they have increased confidence in responding to microaggressions and that the training program achieved its learning objects. Eventually, the training program team hopes to do a more robust evaluation that includes following up with past participants.

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[a] For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-2/icahn-school-of-medicine-microaggressions-101.pdf.

[b] The ACTION framework stands for Ask clarifying questions, Come from curiosity not judgment, Tell what was observed, Impact exploration, Own thoughts and feelings, Next steps (Souza, 2018).

Internal Program Sustainability and External Program Applications[c]

ISMMS program staff see the importance of understanding the needs of participants before the training to tailor the content for the audience, which helps ensure that it is relevant. Staff find that this strategy helps the program grow and is a method that other institutions can consider when offering similar workshops in their communities.

Icahn School of Medicine at Mount Sinai, "Microaggressions 101 and 102: Taking Action," initiated in early-2021

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	Consult with department or unit leadership to tailor the training curriculum to the needs of the faculty, staff, and graduate students undergoing the training, keeping in mind the challenges of microaggressions and power differentials
Institutional Support: Who and What Is Involved	Buy-in from senior leadership; co-sponsorship by the Office of Gender Equity in Science and Medicine and the Office for Diversity and Inclusion; leaders often are the individuals requesting the training for their teams
Program Evaluations	Post-training evaluation that asks participants to self-assess and about their confidence in applying lessons/skills learned
Internal Program Sustainability and External Program Applications	Making supportive resources available after the training, and assessing/tailoring participant needs prior to training delivery

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[c] ISSM's Microaggressions 101: Taking Action program staff has kindly offered to share portions of its training curriculum with institutions who are interested in applying this program.

BOX 1-6

Boston University, "Beyond Bystanders"*a*

Beyond Bystanders is a Boston University longitudinal bystander intervention training series designed to provide male graduate students in science, technology, engineering, and mathematics (STEM) programs with the skills to identify and interrupt sexual misconduct, with a focus on gender harassment. With cross-institutional support, this program makes use of peer facilitation to help teach skills for identifying sexual harassment, accepting responsibility to intervene as a bystander, and building confidence in knowing how to intervene. The first part of the workshop contains basic information about frequency, effect, definitions, and basic bystander intervention framework. Workshop sessions focus on different scenarios with varying power differentials that graduate students might experience (with advisors, advisees, or peers). The program staff believe the design of the program contributes to its success because it (1) has multiple sessions across extended periods, creating space for attendees to reflect and process the content; (2) starts with a basic introduction followed by sessions with scenarios of increasing complexity, allowing attendees to gradually increase their understanding; (3) engages peer facilitators, in this case male STEM graduate students facilitating workshops for male STEM graduate students; and (4) uses discussion and scenario-based learning tactics. The Beyond Bystanders initiative, initiated in mid-2018, was developed and administered by the Advance, Recruit, Retain, and Organize Women in STEM (ARROWS) program, which is funded by the Office of the Provost. Boston's program builds on the Interrupt: A Training for Graduate Students program that is led by the Sexual Assault Response and Prevention (SARP) Office.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students
Since the target audience for Boston's program is male graduate students, it was important for the program staff to have individuals from that group develop content and facilitate the workshop. The peer-facilitated design of the program helps with building allyship and encouraging attendees to more readily accept the content and goals of the workshop.

Institutional Support: Who and What Is Involved
Program staff find that the success and credibility of the preexisting ARROWS program helps with generating institutional support and buy-in for the Beyond Bystanders program. Furthermore, the support of Boston University's Provost's Office results in additional collaboration with graduate student organizations, STEM department chairs, and offices related to prevention education and supporting graduate students. Additionally, STEM department chairs, deans, and associate provosts also encourage the continuation of the program. Content development and revision comes from cross-collaboration by the SARP Office, the ARROWS program, the Graduate Women in Science and Engineering (GWISE) graduate student group, and the WISEGuys graduate student group— all of whom also revised the Interrupt bystander intervention program to specifically cater to male graduate students. Program staff believe that collaboration across these various groups ensures more inclusive, relevant, and relatable content for attendees.

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a For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-2/boston-university-beyond-bystanders.pdf.

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS

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Program Evaluations

Boston's program utilizes pre- and post-test measures to assess the efficacy of the program; results show consistent positive outcomes where attendees felt more confident in determining whether a situation involves harassment, believed they had a responsibility to intervene, and felt more confident in knowing how to intervene.

Internal Program Sustainability and External Program Applications

Boston's program staff believe that the cross-collaboration of the program contributes to its ongoing success. They have seen that buy-in from campus partners (academic leadership, prevention professionals, graduate student groups) helps to ensure that the program can be trusted and well supported. Additionally, the financial support and staffing (a full-time administrator) helps to ensure consistency in the continued implementation of the program and provides support and training for the peer facilitators. According to the program staff, having an environment that collaborates across various groups and offices in the institutions and that supports the creation of a program is necessary for implementing the Beyond Bystanders program in other institutions.

Boston University, "Beyond Bystanders," initiated in mid-2018

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	Peer-led, peer-facilitated training sessions, with discussions and practice scenarios and an emphasis on male graduate students
Institutional Support: Who and What Is Involved	Helping program credibility and success by building off the foundation of the existing Boston University ARROWS program, along with institutional support and content advice from a broad campus coalition
Program Evaluations	Pre- and post-test measures to assess the efficacy of the program
Internal Program Sustainability and External Program Applications	Broad campus buy-in to ensure the program is trusted and well-supported, and a campus environment that encourages sustainability (in consistency, peer facilitation, and financial support/staffing)

BOX 1-7

University of California, San Diego, "Bystander Intervention Program for Faculty and Staff"[a]

Starting in 2021, the University of California, San Diego (USCD) began offering Empowering Employees to Intervene: Sexual Harassment, a bystander intervention program developed for faculty and staff. This program was initiated in mid-2020 and is based on a bystander training for students that was developed by Campus Assault Resources and Education (CARE) at the Sexual Assault Resource Center (SARC) using the IDEAS model (Interrupt, Distract, Engage Peers, Alert Authorities, and Safety First). Although the training was based on student sexual misconduct situations, the examples for each intervention method are drastically different in the employee version. This modification is the culmination of years of planning and implementation, and the training empowers faculty and staff to intervene in sexual harassment. The training utilizes an intersectional approach, as sexual harassment is usually combined with other forms of harassment, and it incorporates a discussion of power dynamics in the workplace using a variety of scenarios and roles (professors, graduate students, principal investigators in a lab, janitorial staff, doctors/nurses) and how they affect a person's willingness to intervene. The training is offered in campuswide formats that any employee can register for, as well as in a customized format for specific departments that requested the workshop in light of departmental needs. The program is led and co-facilitated by the University Office for the Prevention of Harassment and Discrimination (OPHD) and CARE at SARC.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students
UCSD's program staff reported having to invest a substantial amount of time and effort to create scenarios reflective of the employee experience that took into consideration power dynamics found in the workplace. These scenarios are often revised to meet the needs of the audience and reflect situations in which they are more likely to encounter. The program also engages with faculty, staff, and other employees of the institution to provide feedback on the program to ensure that the training is relevant, useful, and effective for attendees.

Institutional Support: Who and What Is Involved
Institutional support for the UCSD Empowering Employees to Intervene program started with consultation between the university's primary representatives for the Action Collaborative, OPHD staff, and CARE at SARC staff.[b] The OPHD and CARE at SARC staff often work with human resources to increase awareness about the workshop offerings.

Program Evaluations
UCSD's program participants have opportunities to provide feedback through pre- and post-surveys, and much of the feedback has been positive, especially the role-playing aspect. Individuals who attended the workshop felt that the program raised their awareness of bystander intervention in general and increased their willingness to intervene in their personal and professional spheres of influence.

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[a] For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-3/university-of-california-san-diego-bystander-intervention-program-for-faculty-and-staff.pdf.

[b] UCSD's Office for the Prevention of Harassment and Discrimination also serves as the institution's Title IX office. Additionally, CARE at SARC developed a bystander training for students using the IDEAS model, which is a strategy they then implemented in UCSD's Bystander Intervention Program for Faculty and Staff.

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS

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Internal Program Sustainability and External Program Applications

Program staff are simultaneously considering (1) broadening the program so that it includes other forms of discrimination and harassment (e.g., racism, ableism) and (2) developing a specialized version of the program for supervisors and administrators. UCSD's program team noted that other institutions, especially those that have medical centers, could apply the UCSD Bystander Intervention Program for Faculty and Staff by assessing the power dynamics in environments that affect training attendees and developing scenarios that reflect the situations they may face.

University of California, San Diego, "Bystander Intervention Program for Faculty and Staff," initiated in mid-2020

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	Create scenarios reflective of the employee experience that take into consideration intersectionality and power dynamics found in the workplace
Institutional Support: Who and What Is Involved	Program consultation with university leadership, human resources representatives, and the Sexual Assault Resource Center (SARC)—followed by feedback from faculty, staff, and other employees of the institution
Program Evaluations	Pre- and post-surveys to assess awareness of strategies and the willingness to intervene
Internal Program Sustainability and External Program Applications	Campuswide training format, as well as customization for departments and opportunities for expansion to other groups and specialized training for supervisors

Wellesley College, "Sexual Harassment Prevention Training with Bystander Intervention"[a]

Wellesley College expanded an anti-sexual harassment training to include bystander intervention training for specific student, faculty, and staff groups. The purpose of adding bystander intervention to its program was to educate and train all members of the campus community to prevent or help in harmful situations, such as potential sexual assault; binge drinking; and harassment or unwanted comments of, for example, a sexual, racist, or transphobic nature. One of its main approaches to making the training relevant for participants is to include departmental leadership in the training and inquire about potentially relevant scenarios that can be incorporated into the program. During the 2020–2021 academic year, the training program was led and managed by the College Office of Nondiscrimination Initiatives, the Associate Provost for Equity and Inclusion, and Dean of Students Office.

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students
Since Wellesley College does not have graduate students, the program is specifically geared toward undergraduate students and staff. The content of the program also caters to the audience because department leaders or other staff members contribute information on topics and scenarios relevant to their department. Program staff also make themselves available for post-training questions and provide relevant resources that supplement the program.

Institutional Support: Who and What Is Involved
The Office of Nondiscrimination Initiatives is responsible for carrying out the training, but broad buy-in is generated from leadership across the institution, including the Offices of the President, Provost, Student Affairs, Human Resources, Athletics, and Residential Life. Furthermore, Wellesley College established the Bias Response Protocol Committee, which provides feedback on the content in an effort to improve the program's bystander intervention trainings for staff, faculty, and students. The committee consists of the Director of Nondiscrimination Initiatives, the Associate Provost for Equity and Inclusion, the Associate Dean of Students, and the Director of Talent Management and Development. The Director of Student Wellness or Dean of Student Inclusion and Engagement are also typically involved by co-facilitating the trainings.

Program Evaluations
Wellesley's program staff saw the active engagement and participation from departmental leaders as an indicator of the success of the program. Follow-up discussions and training also created a space for feedback and assessment on the success of the program, for example, if participants learned skills and are more willing to intervene.

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[a] For more information on this program, see https://webassets.nationalacademies.org/files/PGA-CWSE-19-P-164/repository/year-3/wellesley-college-sexual-harassment-prevention-training-with-bystander-intervention.pdf.

Internal Program Sustainability and External Program Applications

Wellesley's program staff hope to eventually apply the training to faculty. Based on the experiences of the Sexual Harassment Prevention Training with Bystander Intervention program, staff have found that prioritizing post-training resources, feedback, and support could be helpful for other institutions interested in developing, implementing, and sustaining a similar program.

Wellesley College, "Sexual Harassment Prevention Training with Bystander Intervention," initiated during the 2020–2021 academic year

Strategies for a Training Program Focused on Faculty, Staff, and Graduate Students	The Wellesley program was geared to undergraduate students and staff, as Wellesley College does not have graduate students. There are potential plans to expand the program to serving faculty
Institutional Support: Who and What Is Involved	Broad buy-in is generated from leadership across the institution (president, provost, student affairs, human resources, athletics, residential life)
Program Evaluations	Having departmental leaders actively involved in designing, and participating in, trainings
Internal Program Sustainability and External Program Applications	Prioritizing post-training resources, feedback, and support

Lessons Learned from Program Staff

The program staff from the seven institutions also raised several considerations that could make the development, implementation, and evaluation of bystander intervention programs challenging. While not exhaustive, the following points highlight gaps that could be an opportunity for institutions to create even more robust bystander interventions and/or provide additional support:

- **Developing bystander intervention programs:** Program staff noted that it could be difficult to generate buy-in from leaders across every department and school of an institution. Additionally, staff noted the challenges in tailoring trainings to the climate of the department, school, lab, and so forth because of all the power dynamics and climate issues in the environment—especially those that are not obvious. For instance, if the program staff are unaware of subtle microaggressions that may be occurring in an environment, it could be hard to develop programs that train and educate individuals to address and respond to such actions. Finally, program staff highlighted the need for programs to account for learners' roles and responsibilities (e.g., faculty members that are mandatory reporters) so that the training content supplements their obligations.

- **Implementing and executing bystander intervention programs:** Several of the highlighted programs indicated having very few staff members (sometimes even just one) leading and executing the trainings. They noted that staff bandwidth and heavy workload can also make it challenging to implement programs and deliver content effectively. Staff also highlighted the need to have effective trainers and facilitators that can successfully equip learners coming from different environments.

- **Maintaining and evaluating bystander intervention programs:** Program staff highlighted the risk of retaliation that bystanders face, which may make them more hesitant to engage or use the training in opportunities that require intervention.[4] Additionally, staff commented on the challenges in maintaining funding and resources for supporting programs. Furthermore, they highlighted a need to evaluate bystander intervention programs and use effective measures (Banyard et al., 2014; Mennicke et al., 2022; NASEM, 2018, 2021).[5]

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[4] The Remediation Working Group of the Action Collaborative on Preventing Sexual Harassment in Higher Education is working on a paper on how institutions can move beyond compliance and effectively respond to and/or prevent retaliation; see https://www.nationalacademies.org/our-work/preventing-retaliation-to-discourage-sexual-harassment.

[5] The Evaluation Working Group of the Action Collaborative on Preventing Sexual Harassment in Higher Education is gathering information and research on the methods for evaluating interventions for preventing sexual harassment; see https://www.nationalacademies.org/our-work/methods-for-evaluating-efforts-to-address-sexual-harassment.

Conclusions

Based on the institutional summaries presented in this paper and our collective experiences in higher education sexual harassment prevention work, we now note several reoccurring themes that demonstrate the need to account for the ecosystem of faculty, staff, and graduate students when developing bystander intervention programs. We also consider how these overlapping themes attend to the research by accounting for such factors as social norms, sense of community, prosocial modeling, policies and accountability cues, and physical environment (McMahon, 2015).

Collaborating Across Multiple Offices, Senior Leaders, Employee and Graduate Student Groups, and Other Stakeholder Groups

Every program noted some degree of cross-collaboration in the institution when developing content, leading and/or facilitating components of the program (e.g., workshop sessions, male graduate student bystander training), and providing feedback and evaluating the program. Engaging multiple stakeholders helps promote bystander intervention even if changes in leadership and roles occur (e.g., a faculty member becomes a department chair). It also helps incorporate the ecosystem of faculty, staff, and graduate students into bystander intervention programs by accounting for environmental factors that promote bystander behavior such as social norms, modeling the desired behavior, and building a sense of trust (McMahon, 2015). For instance, Wellesley College engages various leaders, such as the Associate Provost for Equity and Inclusion and the Director of Talent Management and Development, through the Bias Response Committee. The committee is designed for the purpose of developing and improving training content, and subsequently, Wellesley College emphasizes a social norm that prioritizes and supports bystander intervention.

Leaders can show support of bystander behavior when they endorse intervention, similar to the messaging sent by Harvard University's Office of the President and Provost. Additionally, Rutgers' program staff built an extensive network of partners that engages many offices and individuals in leadership roles. These partners used their platforms, power, and influence to support the program and bystander behavior.

Rutgers' focus on collaboration is a method for building trust and a sense of community among individuals prioritizing and supporting intervention, thereby encouraging others to engage in positive bystander behavior. By developing partnerships among multiple offices and departments, Rutgers built bridges across its institutional silos, helping faculty, staff, and graduate students feel less isolated and perhaps more willing to intervene.

Program staff also faced challenges in building partnerships, extending collaboration networks, and acquiring leadership support. For example, building partnerships and buy-in within the institution may take time, where sometimes leaders of the institution may not choose to prioritize sexual harassment bystander programs. It may also be especially challenging to involve leaders and stakeholders from environments that may show signs of an unhealthy climate and could benefit from bystander intervention training. At the same time, these challenges could also be an opportunity for program staff to find creative ways to address the barriers that might prevent leaders or other stakeholders from stepping up and joining efforts that promote bystander intervention.

Incorporating Voice to Address Power Dynamics, Microaggressions, and Other Challenges

Every program made use of the lived experiences and perspectives of faculty, staff, and/or graduate students. Boston University's Beyond Bystanders program engaged multiple stakeholder groups—including participants' peers—to build allyship, which encouraged participants to be more willing to accept and learn positive bystander behavior. We see the tactic of engaging peers as directly facilitating a social norm that intervention—not silence—is desired and expected by the community. This tactic can also help individuals model positive bystander behavior, where peers can show one another practical approaches for intervening in shared or common experiences of harmful incidents.

Institutions also noted the value of engaging their audience(s) when developing content so that the training remained relevant. Icahn School of Medicine and the University of California, San Diego took great efforts to tailor their programs so that the content was relevant for the attendees. By doing so, the institutions showed a commitment to support bystanders, which seemed to build a sense of community and trust. Several programs, such as one at the University of California, Irvine also gave their targeted audience opportunities to provide feedback to improve their programs. By providing a place for insight and perspective—and have their voices heard—institutions create an environment that increases perceived trust and fairness (Potter and Stapleton, 2011; Potter et al., 2011; Umphress and Thomas, 2022).

With these benefits in mind, we also acknowledge that limitations to fully engaging faculty, staff, and graduate students exist. For instance, it can be hard to develop programs that attract multiple audiences, including those who are interested in bystander intervention training and those who are not. Furthermore, it can be challenging to have faculty, staff, and graduate students serve as trainers and evaluators and in other roles that require their participation in the program without further burdening them with more work. We encourage institutions to develop, implement, maintain, and evaluate programs that can effectively engage and support faculty, staff, and graduate students.

Follow-up Activities to Promote Norms

By providing follow-up resources and with additional support through institutional policies, bystander intervention programs may be able to further promote a norm that sexual harassment is not tolerated by the institution, and the institution holds the community responsible for discouraging sexual harassment by intervening. Program staff who followed up with their attendees, such as the Harvard and Icahn teams, showed a standard of accountability by further supporting attendees to engage in positive bystander behavior in the real-time situations they faced. Also, institutional policies that encourage intervention, promote bystander behavior, and provide adequate protection for faculty, staff, and graduate student bystanders can help to support those who may fear retaliation and/or institutional betrayal (McMahon, 2015; McMahon et al., 2020). Rutgers University policies supported their bystander intervention program by "wrapping around" bystanders, providing support and showing a commitment to creating a safe place for them.

Potential challenges with this approach include limited institutional resources and support that could result in overwhelming the staff running the bystander program and affect the sustainability of the program. One possible strategy to deal with limited resources is to consider repurposing or modifying existing training

programs (e.g., bystander intervention training programs for undergraduate students or existing sexual harassment information or research integrity training programs) to address situations faced by faculty, staff, and graduate students, as several institutions have done. This approach could minimize the effort spent in development, draw from similar funding sources, and benefit from the collaboration networks that support other programs. Finally, institutions could consider rolling out a pilot version of the program, as Icahn did, to gain support and resources, and then tailoring it to address specific needs that may require more time and effort from program staff.

Call for Research

More research needs to be done to better understand, identify, and assess factors and strategies for a successful program, especially for a bystander intervention program in complex work environments. In addition, more detailed evaluation efforts are needed to determine effectiveness of these programs tailored to faculty, staff, and graduate students, including around doses, boosters, training modalities etc. (Banyard et al., 2014, 2018; McMahon et al., 2017; Mennicke et al., 2022; Potter and Stapleton, 2013). Research questions include but are not limited to the following:

- What are best practices for developing, implementing, and/or assessing a bystander intervention program?

- What characteristics contribute to a successful and effective program? For example: Is it more beneficial to have opt-in bystander intervention training programs compared to mandatory intervention training programs? Is it more beneficial to have in-person or remote training programs? What are optimal doses and necessary boosters to affect long-term change?

- How does the design of bystander interventions correlate with changes in bystander behavior and culture change that discourages sexual harassment over the short and long term?

- Who are the essential people and what are the offices needed to develop, implement, maintain, and evaluate a bystander intervention program for faculty, staff, and graduate students?

- What actionable tools, guides, resources, and networks need to be developed to assist institutions in creating and sustaining bystander intervention programs?

- What are effective measures and what data should be collected for assessing a bystander intervention program specific to complex work environments?

These questions provide opportunities for moving forward. Rather, this is an opportunity for faculty, staff, advocates, practitioners, training program staff, and institutional leaders to develop, and funding agencies to support new and creative ways for developing more robust programs that reflect the experiences and environments of a range of audiences. By investing in a better understanding of the ecosystem of faculty, staff, and graduate students, and prioritizing the evaluation of training programs for these populations, institutions can better equip the members of their academic community to intervene and stop sexual harassment from occurring.

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as preventative measures. Helen is an attorney with more than 12 years of experience in civil rights cases. She has extensive experience in investigations and education in Title IX and related areas.

Devin Madden is the Associate Director of Gender Equity in the Office of Gender Equity in Science and Medicine at the Icahn School of Medicine at Mount Sinai (ISMMS). In this role, Devin supports the office's mission of promoting equity through programs, policies, and community-building that address how ISMMS shows people they are valued and can succeed regardless of gender identity or expression. Devin's current work builds on programs they developed and facilitated during their time working at the New York City Department of Education to foster more inclusive, affirming environments for educators working across the school system. At ISMMS, she is responsible for co-developing and delivering programs on the ways in which gender-based microaggressions show up in our school community, the impacts they have on individuals and the overall culture of our workplace, and strategies for addressing them. Devin is also a team member of the Institute for Health Equity Research at Mount Sinai where she actively engages in community-based research initiatives. Devin is also currently pursuing a Ph.D. in education and leadership at Pacific University.

Guilene Prepetit is the Deputy Title IX Coordinator and Human Resources Generalist at Olin College of Engineering. She is responsible for ensuring a streamlined process for many areas in human resources, including, but not limited to, recruitment, benefits, compensation, employee relations and compliance. Prior to joining Olin, she worked for companies that range from management consulting to biotech and health insurance companies to non-profit organizations. Guilene's experience in human resources and risk management spans more than 25 years.

Kaaren Williamsen is Director of PEAR (Prevention, Education, Assistance, Resources) in the Equity, Civil Rights, and Title IX Office at the University of Michigan. PEAR is a new department focused on providing prevention and policy education for faculty and staff, as well as assistance to units and colleges as they holistically respond to sexual misconduct in their communities. She has also served as Director of SAPAC (Sexual Assault Prevention and Awareness Center) at the University of Michigan. Prior to University of Michigan, she served as the Title IX Coordinator at Swarthmore College, and was the founding director of the Gender and Sexuality Center at Carleton College, where she also served as a Deputy Title IX Coordinator. Kaaren has master's degrees in women's studies (Minnesota State, Mankato) and counseling and student personnel psychology (University of Minnesota, Twin Cities); she holds a Ph.D. in organizational leadership, policy, and development from the University of Minnesota. Completed in 2017, her dissertation addressed the limitations of the traditional response to sexual misconduct and the possibilities of restorative justice. She co-founded Campus PRISM

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS

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(Promoting Restorative Initiatives for Sexual Misconduct) and is a restorative justice facilitator trainer and consultant. She is also co–editor of the forthcoming book *Applying Restorative Justice to Campus Sexual Misconduct: A Guide to Emerging Practices* from Stylus.

Acknowledgments

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ABOUT THE ACTION COLLABORATIVE ON PREVENTING SEXUAL HARASSMENT IN HIGHER EDUCATION

The Action Collaborative on Preventing Sexual Harassment in Higher Education brings together academic and research institutions and key stakeholders to work toward targeted, collective action on addressing and preventing sexual harassment across all disciplines and among all people in higher education. The members actively collaborate to identify, research, develop, and implement efforts that move beyond basic legal compliance to evidence-based policies and practices for addressing and preventing all forms of sexual harassment and promoting a campus climate of civility and respect.

The Action Collaborative includes four Working Groups (Prevention, Response, Remediation, and Evaluation) that compile and gather information and publish resources for the higher education community. Those resources include issue papers authored by individuals who are members of one of the working groups. An issue paper explores a specific topic or practice related to sexual harassment in order to:

· Serve as a research-based resource for higher education administrators; practitioners; faculty, staff, and student leaders as they consider policies, practices, and approaches related to sexual harassment prevention, response, remediation, and/or evaluation; and

· Inform them of the potential value of implementing new approaches for addressing sexual harassment.

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CONFLICT-OF-INTEREST DISCLOSURES The authors declare no competing interests or disclosures.

For more information about the Action Collaborative, see
https://www.nationalacademies.org/our-work/action-collaborative-on-preventing-sexual-harassment-in-higher-education.

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Training Presenters:

Abigail Boyer
associate executive director
she/her

Jessica Mertz
executive director
she/her

Today We Will:

- Identify Clery Act and Title IX reporting responsibilities;

- Recognize intersections between and potential confusion regarding confidential roles under each law;

- Learn strategies for clearly communicating reporting, response, and information-sharing expectations on campus.
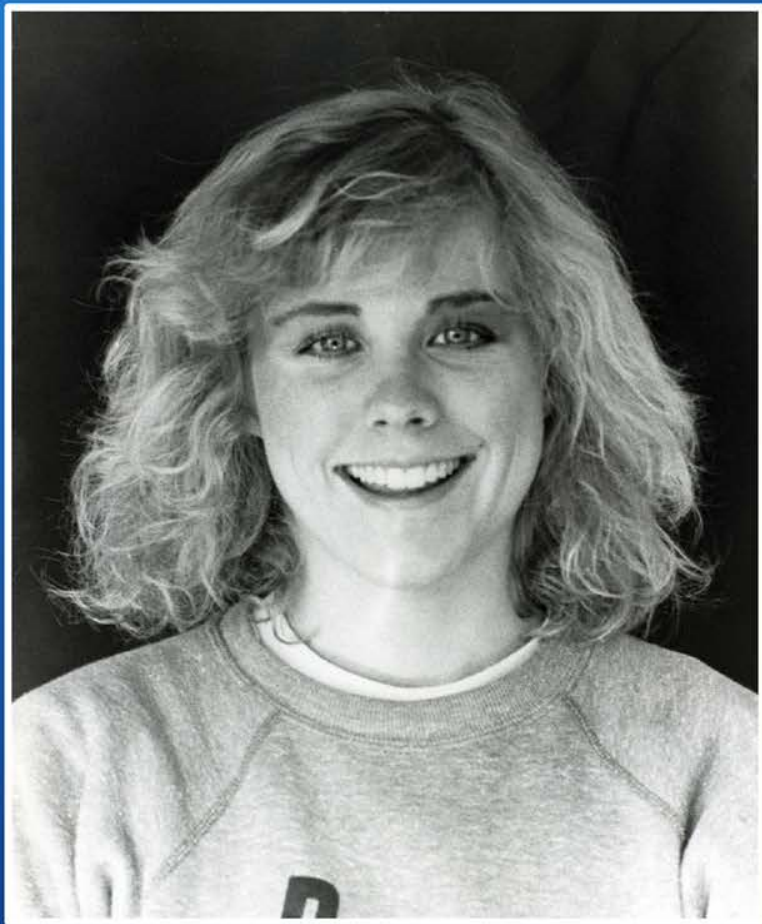
"The best education in the world is useless if a student doesn't survive with a healthy mind and body."

—

Connie & Howard Clery
Clery Center Founders

Our Mission:
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What We Do:
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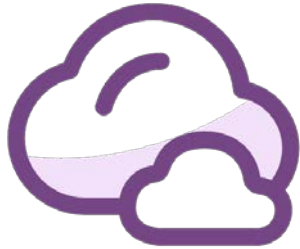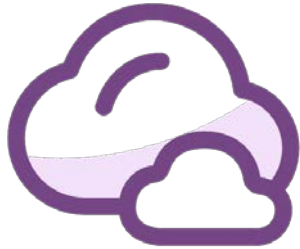
Overview: Clery Act and Title IX Reporting Responsibilities

Clery Act and Title IX

Clery Act

- Consumer information
- Clery Act crimes, including dating violence, domestic violence, sexual assault, and stalking
- Required reporting by campus security authorities

Title IX

- Civil rights law
- Sex-based harassment, including dating violence, domestic violence, sexual assault, and stalking
- Required reporting under 2024 and 2020 regulations

Clery Act: Campus Security Authorities (CSAs)

- Campus police/security department
- Individuals responsible for security
  - Ex: Access monitors, resident assistants, etc.
- Individuals or offices designated to receive crime reports
- Officials with significant responsibility for student and campus activities

A campus security authority's primary responsibility is...

to report allegations of Clery Act crimes reported to them to the official or office designated by the institution to collect crime report information.

Title IX: Reporting Responsibilities

2024 Regulations

Notice to any employee who is not a confidential employee and who either has authority to institute corrective measures on behalf of the recipient or has responsibility for administrative leadership, teaching, or advising in the recipient's education program or activity

2020 Regulations

Notice to any official of the recipient who has authority to institute corrective measures on behalf of the recipient

These roles must report to the Title IX coordinator when they have information about conduct that reasonably may constitute sex discrimination.

Under the 2024 Regulations

All other employees who are not confidential employees must:

- Notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX; or

- Provide the contact information of the Title IX Coordinator and information about how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination

What happens after a report?

Clery Act	Title IX
- Written explanation of rights and options - Includes options for disciplinary process - Timely warning analysis - Daily crime log - Crime statistics	- Supportive measures - Options for informal resolution or grievance procedures

Reporting Obligations Under Clery and Title IX

The Clery Act	Title IX

The Clery Act

- CSA
- No Designation
- Exempt
  - Pastoral Counselors
  - Professional Counselors

Title IX

- Report to Title IX Coordinator
- Provide Title IX Coordinator contact information to victim
- Confidential
  - Designated by institution
  - State or federal privilege or confidentiality recognition

Institutions will need to make two determinations for reporting responsibilities for each employee:

➔ one as a CSA for Clery and one for reporting under Title IX

Confidentiality Under Title IX and the Clery Act

Exempt From Reporting Under the Clery Act

- Pastoral counselors
- Professional counselors
  - Applies to mental health counselors employed or under contract by the institution
- Person uncertified but acting under the supervision of an exempt counselor

Confidentiality Under Title IX: 2024 Regulations

Confidential employee means:

(1) An employee of a recipient whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of a recipient whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or

(3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

Confidentiality Under Title IX: 2020 Regulations

- Do not explicitly define who could be considered confidential; simply clarify to whom reports constitute "actual knowledge"

Question: Can a role be confidential under Title IX and yet still be required to report under the Clery Act?

Answer: Yes.

Do Any Other Roles Currently Considered "Confidential" by the Institution Have Significant Responsibility?

- Previous definition of "official" in Handbook for Campus Safety and Security Reporting (now rescinded): "any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution"
- Possible questions:
  - o Is it part of the individual's job to develop relationships with students?
  - o Can the individual act on behalf of the institution?
  - o Does the individual volunteer or have a job function outside of the classroom that causes them to interact with students?
    - ➢ Can non-employees be officials?

From the Clery Act Appendix

"Individuals determined not to have significant responsibility for student and campus activities may, in some cases, include those individuals who, for example, have irregularly scheduled duties or duties that are not part of an employee's primary job description. If paragraphs (i)-(iii) of the definition of CSAs are not applicable, institutions should focus on the "significant responsibilities" of an employee when determining whether that employee is a CSA for Clery purposes."

From the Clery Act Appendix (Cont'd.)

"The Department will defer to an institution's designation of CSAs as authoritative and provide any technical assistance necessary to work with institutions to help ensure proper identification and notification of CSAs consistent with the regulations."

"The regulations do not require that an employee with minimal responsibilities for student and campus activities necessarily be considered CSAs."

From the Clery Act Appendix (Cont'd)

- "On a case by case basis, institutions may **apply the regulations** to not designate CSA responsibilities for Clery Act reporting purposes to an individual."
  - Consider: How would you articulate your application of the regulations?
  - Not "pick and choose" but rather application of the definition

Questions to Consider

- When is the last time you updated your list of CSAs?
  - This list dictates who your CSAs are; therefore, Handbook rescission alone doesn't change who your CSAs are
  - You must update the list if there are roles to add/remove and be able to articulate why a role is/is not a CSA
- How do you determine "an official with significant responsibility for student and campus activities"?
- Are there any roles labeled "confidential" by the institution that still must report under the Clery Act? How is that communicated to students and employees?
- Who makes decisions about reporting under the Clery Act? Title IX? Do they consult one another?

Other Considerations: Language Matters

- State Laws on Confidentiality and Reporting
  - What's legally protected?
- Existing campus policies/terminology
  - Are you consistent with how you use the word "confidential"?
  - What terms are being used elsewhere (mandated reporters, required reporters, responsible employees; etc.)? Are any of them supposed to capture Title IX and Clery reporting?

slido
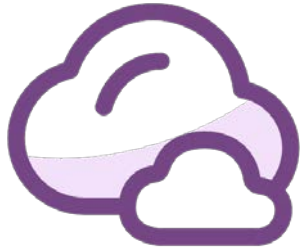
Let's talk through some examples. What are some roles on your campus that may be confidential but still have reporting responsibilities?

ⓘ Start presenting to display the poll results on this slide.

Communicating Reporting Responsibilities

To those required to report

To the campus community

Communicating Reporting Requirements

- Evaluate/re-evaluate reporting roles and notification strategies
  - Include information on roles in job description
  - Talk about this function in an interview process
  - Provide written information (and reminders) about this role and its expectations
  - Train roles required to report under the Clery Act and Title IX on how to discuss their role as an official with authority, campus security authority, etc.
    - Before a report
    - After a report

Communicating Reporting Requirements

- Review policy language describing reporting responsibilities of confidential roles.

  - Example 1: Confidential resources do not disclose information to others on campus without written permission. Disclosures to confidential resources are not shared with the Title IX coordinator or reported under the Clery Act for inclusion in campus crime statistics or other reporting.

  - Example 2: Confidential resources other than pastoral and professional counselors share non-identifiable information about an incident (including the nature of and location of the incident, the date and time it was reported, and the date and time it occurred) for the purposes of Clery Act reporting, including the sharing of crime statistics and evaluation for serious or ongoing threats that warrant alerts to the broader community.

Communicating Reporting Requirements (Cont'd)

Update reporting resources (written explanation of rights and options, flow charts, sample scripts etc.)

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Communicating Reporting Requirements (Cont'd)

Educational programs /campaigns

Q & A
BREAK

39

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95% said they would recommend Membership.

96% agreed that Membership helps their institution comply with the Clery Act and improve campus safety.

"[Membership] allows our leadership to remain informed on why compliance is necessary — not only to avoid a fine, but to ensure the safety and security of our campus communities."

– INSTITUTIONAL MEMBER

Of all Member Benefits, respondents most appreciated the ability to:

Attend free training

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Receive timely updates on Clery Act changes or guidance

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"The ability to go back and watch past training videos, or access Clery checklists for the ASR, afford me a great deal of confidence that my own reporting will meet standards."

– INDIVIDUAL MEMBER

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TIMELY WARNING DECISION MATRIX

After a Clery crime is reported, your institution must determine whether students or employees are at risk of becoming victims of a similar crime, and, if so, must issue a timely warning. Reports need to be evaluated on an individual basis. A timely warning decision matrix can help you take all available information into consideration when determining if a serious or continuing threat exists.

Review the timely warning decision matrix template below and make notes on it as to how you will tailor for your institution. Consider, for example: Would you add a listing of Clery crime definitions and descriptions of Clery geography on your matrix for reference? Would you add a section that summarizes resources used to disseminate an alert, etc.? Which institutional office/department would be responsible for maintaining this form and storing documentation?

Institution's Name, Office/Department from which form is available
Template: Timely Warning Decision Matrix

Date/time incident was reported to a CSA: _____

Incident Case Number: _____

How was the report received:
- ☐ Campus Police   ☐ Other CSA reported it
- ☐ Local Law Enforcement   ☐ Other

Date/time incident occurred: _____

1. Clery Crime Classification (If it is one of these crimes, check and move on to next question):	2. Clery Crime Geography (If it is one of these locations, check and move on to the next question):
☐ Homicide	☐ On-Campus
☐ Sex Offense (rape, fondling, incest, statutory rape)	☐ On-Campus Student Housing Facility

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Establishing a Clery Compliance Team

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Memoranda of Understanding (MOU) can help to define roles and responsibilities regarding shared challenges and work between an institution of higher education or school district and local community agencies. MOUs could also have multiple signatories when more than one community agency is involved.

Parties should approach the MOU process collaboratively, identifying areas of overlap in services, compliance needs, and challenges. Close communication and an iterative drafting process will yield the most effective result. Below is an example of an MOU, but parties may add or delete sections depending on the individual needs of the parties and community.

I. Purpose

This section is an example of an MOU statement of purpose. Parties should include the overarching priorities and motivating factors for signing the MOU. This section should be comparatively short and high-level, leaving the details for other MOU sections.

AGENCY and RECIPIENT ("Parties") enter into this Memorandum of Understanding (MOU) to formalize the commitment of the Parties to collaborate to (a) provide trauma-informed services to student and employee survivors of sex- and gender-based misconduct, (b) improve the response to sex- and gender-based misconduct at RECIPIENT, and (c) develop/implement programming for RECIPIENT students and employees that reduces incidences of sex- and gender-based misconduct.[2] [3]

II. Parties

This section describes the parties to the MOU. Parties should customize this section to include accurate descriptions of the Parties, their structure, their services, their mission or purpose, and any other pertinent information.

AGENCY is a non-profit, community-based organization dedicated to eliminating sex- and gender-based violence in all its forms. AGENCY provides free and confidential services to survivors of sex- and gender-based violence, as well as impacted friends and family members. Services include a 24-hour crisis hotline, counseling services, medical treatment information, law enforcement reporting options, medical and legal advocacy services, community education, and professional development training. AGENCY provides empowerment-based services focused on healing, support, and justice for survivors.

---

[1] This sample MOU does not constitute legal advice. Legal counsel should review any MOUs to ensure consistency with applicable laws.

[2] Sex- and gender-based misconduct refers to harassment, discrimination, or violence on the basis of sex, gender identity, gender expression, or sexual orientation. Additionally, sex- and gender-based misconduct includes, but is not limited to, sexual assault, dating and domestic violence, sexual exploitation, and stalking.

[3] Although some may prefer to use the term "victim" to describe an individual after experiencing sex- or gender-based misconduct, the term "survivor" is common to the community agency context. Therefore, this MOU example uses the term "survivor" with respect for those who have experienced sex- or gender-based misconduct.

RECIPIENT provides services to current students and employees experiencing the impacts of sex- and gender-based misconduct. The RECIPIENT provides information on supportive measures, available reporting options, and additional resources. Additionally, RECIPIENT may assist survivors in making reports to law enforcement or under the RECIPIENT's Title IX policy, explore informal resolution options, and implement investigation and grievance procedures. RECIPIENT'S Victim Advocate in the Health and Wellness Office serves as a confidential resource to support students and employees navigating their options and resources.

III.   AGENCY Commitments

The following language is an example of a list of AGENCY commitments that RECIPIENT may rely upon after the execution of this MOU. The Parties should have a comprehensive discussion about priorities, needs, and resources prior to drafting this section.

AGENCY will:

1) Provide RECIPIENT students and employees with advocacy services 24 hours per day, including a 24-hour crisis hotline, free of charge/for a contracted rate.
2) Provide confidential crisis intervention services, counseling, information, and referrals.
3) Accompany students or employees to medical, legal, or RECIPIENT administrative appointments.
4) Assist students and employees communicating supportive measure needs to RECIPIENT.
5) Provide students and employees with information about filing a complaint with RECIPIENT'S Title IX Coordinator and about reporting a crime to law enforcement.
6) Aid students or employees with filing a report.
7) Collaborate with RECIPIENT to identify patterns through surveys or other assessment methods, as well as the identification of systemic barriers related to reporting of sex- and gender-based misconduct.
8) Meet regularly with RECIPIENT'S Victim Advocate, Prevention Specialist, law enforcement, and Title IX Coordinator to share information about survivors' needs, trends in sex- and gender-based misconduct, and perceived effectiveness of RECIPIENT's prevention and response program.
9) Provide training to the RECIPIENT community, including but not limited to, Victim Advocates, Prevention Specialists, Student Conduct Professionals, Student Affairs staff, and RECIPIENT law enforcement. Topics may include (a) responding to and investigating sex- and gender-based misconduct in an effective and bias-free manner, recognizing the needs and concerns of diverse communities; (b) trauma-informed training on sex- and gender-based misconduct; (c) consent; (d) responding to reported misconduct of or by members of the LGBTQIA+ community; (e) cultural competency; (f) responding to reported misconduct of or by individuals with disabilities; and (g) responding to reported misconduct of or by international or undocumented individuals, as well as individuals with limited English proficiency.
10) Collaborate with RECIPIENT to develop and implement prevention education programming and training for RECIPIENT.

IV.   RECIPIENT Commitments

The following language is an example of a list of RECIPIENT commitments that AGENCY may rely upon after the execution of this MOU. The Parties should have a comprehensive discussion about priorities, needs, and resources prior to drafting this section.

RECIPIENT will:

1) Identify a point of contact for AGENCY staff to facilitate communication, referrals, and information sharing.
2) Provide training to AGENCY staff about on-campus resources available to student and employees, the RECIPIENT'S obligations under federal and state laws to respond to sex- and gender-based misconduct, reporting procedures with RECIPIENT law enforcement or RECIPIENT Title IX Office, the student conduct process, and supportive measures available to survivors.
3) Provide printed and online materials about reporting options to AGENCY.
4) Inform AGENCY of the mandated reporting obligations of RECIPIENT employees and identify any confidential employees available to students and employees.
5) Inform AGENCY about RECIPIENT'S prohibitions on retaliation, reporting retaliation, and retaliation protections.
6) Commit to a regular meeting between AGENCY and RECIPIENT'S Title IX Coordinator.
7) Collaborate with AGENCY to develop and implement prevention education programming and training for RECIPIENT.
8) Invite AGENCY to serve as a core member of the RECIPIENT'S Interpersonal Violence Response Team.

V.   Communication and Coordination Considerations

The section is an example of provisions governing communication and coordination, including factors like privacy and safety. Some provisions from previous sections may be appropriate for this section as well, and ultimately the Parties should decide how best to organize their MOU.

The Parties agree to:

1) RECIPIENT and AGENCY agree to maintain confidentiality and privacy within the full extent of applicable laws, sharing with one another only pertinent information regarding survivors on a need-to-know basis and for the purpose of keeping survivors safe.
2) RECIPIENT and AGENCY will only disclose personally identifiable information if:
   a) The student or employee asks RECIPIENT or AGENCY to share information with the other Party. Informed consent must be in writing.
   b) State or federal law requires disclosure because there is an imminent risk of harm to self or others. RECIPIENT'S Title IX Coordinator will determine, in consultation with appropriate RECIPIENT employees, notification procedures and steps to protect the survivor from risk.

VI.   General Provisions

1) Each Party agrees to act in good faith to observe the terms of this MOU; however, nothing in this MOU requires any unlawful or unauthorized act by any Party.
2) No provision of this MOU shall form the basis of a cause of action at law or equity by any Party against any other Party, nor shall any provision of this MOU form the basis of a cause of action at law or equity by any third party.
3) This MOU is effective upon signature by each Party.
4) Either Party may terminate this MOU with 30 days' written notice. The Parties may, by mutual agreement, terminate this MOU immediately or amend it in writing.
5) Nothing in this MOU shall make the Parties legal partners, principal and agent, or joint employers. The relationship of the Parties are akin to independent contractors, and neither of the Parties shall have the power or authority to bind or create liability for any other party by its negligent or intentional acts or omissions.
6) The Parties shall not unlawfully discriminate on the basis of race, color, national origin, ancestry, sex, pregnancy, religion, age, physical or mental disability, marital status, veteran/military status, sexual orientation, gender identity, gender expression, political affiliation, order of protection status, survivor of domestic or sexual violence status, citizenship status, genetic information, and/or other protected characteristics.

_____   _____

COMMUNITY AGENCY Representative   Date

_____   _____

RECIPIENT Representative   Date

Compliance Culture and Lip-Service

why queer and trans students don't trust their institutions to help them

October 29, 2024

Abstract

The core learning outcome of this presentation lays at the intersection of two facts: queer students are more likely than their cisgender and heterosexual [cishet] peers to experience gender-based discrimination and violence, and also that they are also less likely to go to their universities and utilize the federally mandated support and services they are owed. This gap between need and utilization has long frustrated those engaged in advocacy and support. While it has been the subject of much conjecture, the question remains: "Why? Why are Queer and Trans* communities less likely to seek support, and what can be done to address this?"

Speakers

Neil E. Golemo, Ph.D. (he/him)

- Positionality
  - Straight, Cis, White, Christian, educated, male, child of loving parents, trauma-free childhood
  - Institutionalist
  - former Title IX Administrator/Investigator
    - 8 years as investigator
  - 20+ years of experience in Higher Ed Administration
- Why am I here?
  - My research specialty is in barriers to Title IX reporting - especially among Queer/LGBTQIA+ communities.
    - Qualitative interviews of Queer student survivors of SV about why they didn't report
    - Ongoing work
      - Incorporating Title IX administrator interviews
      - Practical, operational solutions for improvement
  - TACUSPA "Dissertation of the Year" (no big deal)

Speakers

Maya Satya Reddy, J.D. (she/her)

- Positionality
  - Queer South Asian woman
  - LGBTQ+ Sports Law and Policy Expert
    - University of Pennsylvania Law School Alumna
  - Former professional golfer and NCAA athlete
- Why am I here?
  - My work centers on advocating for trans student-athletes through policy development, litigation, and social advocacy.
  -

Outline

- Queer/non-CisHet populations are more vulnerable, and less likely to seek help.
    - Intimately familiar with institutional betrayal
    - Harm-limiting Behavior
- Title IX Admins are fighting an uphill battle
    - SVU mental models
    - Legislative handicaps (mandatory reporting)
- Institutional Regard vs. Institutional Trust

What does compliance mean?
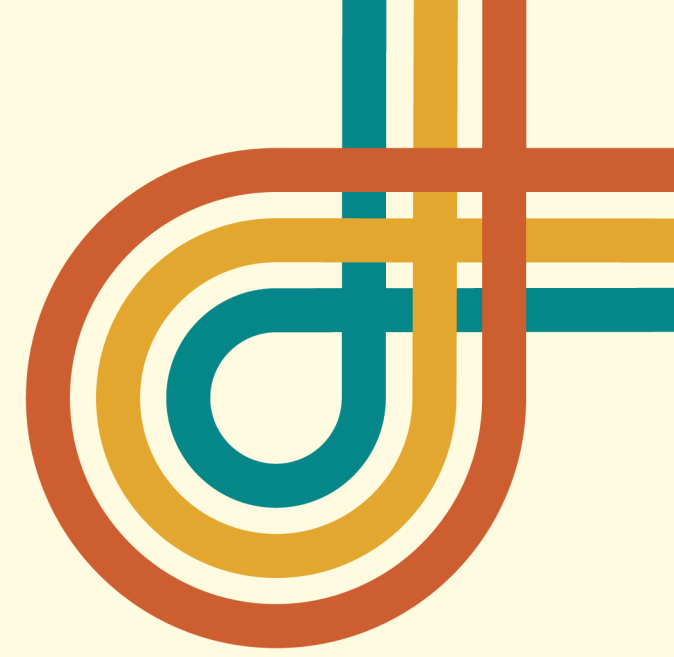
- Institutional perspective: concern with risk management and limiting liability
- Protecting Institutional assets
  - Capital
  - Reputation

What is "Compliance Culture"?
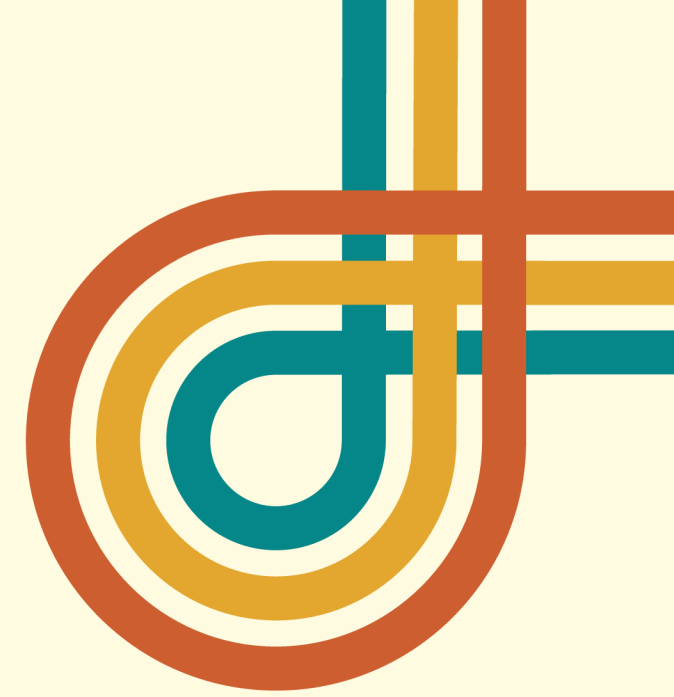
- centers avoiding punishment
  - considering the tension between law and policy requirements e.g. mandatory reporting.

Impact of Compliance Culture

Places additional layers between admins and the students they support

- supporting trans students
  - access to bathrooms
    - ex: PA Middle School installing surveillance windows in gender-neutral bathrooms
  - mandatory reporting
    - Texas
  - in athletics
    - ex: gender suspicion and sex verification testing

Impact of Compliance Culture cont.

Reporting/Participation in Title IX processes
- Reinforcing "Perfect Victim" narrative

"You know, at the time I wasn't worried about being non-binary transgender but if it were gonna happen now, or something like that? I [would] definitely probably just lie to the cops and say I was a woman. Because, I'm not the kind of person who's ever going to get my gender markers changed on anything. Because there may come a day where, like, I need help. And would I be given help if they saw me as just a freak?" - Far Master

Impact of Compliance Culture cont.

Reporting/Participation in Title IX processes
- Law & Order SVU

"I think I had a very "SVU" model in my head of how that would go. Very much like immediately get blamed and have a bunch of shit go down. You know, anxiety through the roof. And I think a lot of stuff affected it.... And so just the idea of like reporting and going through all that stuff -like the version of it in my head that existed where I sit with a detective in a room and tell them what happened. I was just like [ugh] it sounded absolutely terrible." - Musty Ruler

Impact of Compliance Culture cont.

Reporting/Participation in Title IX processes
- Mainstreaming (lie/misrepresent identity)

"I think the things are subtle but also there are some things [nervous pause] I grew my hair out after that. Like becoming less... I mean less visible or conforming more or I don't know what the right words used but they all seem to... describe it. I mainstreamed myself. Why did I make that face? Because I hate it. I hate having myself in the box. And I'm at a place, we are at a place politically where you kind of have to, unless you want to daily be judged just by the way you look." - Adjudicator Tiny

"I always leave out the fact that I was a trans woman and I avoid using pronouns at all costs because it's [a] fucking mystery. Like, they make the assumption so [shrugs]." - Hard Vanquisher

Impact of Compliance Culture cont.

Reporting/Participation in Title IX processes
- Erosion of Institutional Trust and support

It seemed like the process made the incident itself worse. Like if she had just been able to be like "okay so they're going to tell you to drop out. They're going to tell you to take medical leave. They're going to tell you to go to psych services. They're going to tell you like to inform yourself about alcohol use or whatever. They're going to inform or tell you to inform yourself but walking alone at home at night, things that have nothing to do with anything regardless of how your actual rape happened. And they're basically going to blame you. They're not going to believe you, and on top of all of that, now you've got to convince a body of people who don't care about you, of all that. - Savage Destroyer

What can we do?

How do we do our jobs when the result of compliance is harm?

- Trauma-informed practices
  - Tricia Shalka - Cultivating Trauma-Informed Practice in Student Affairs
- Use vulnerable communities as models for efficacy
- Acknowledge the chilling effect and fight it
  - Representation
  - Get. Caught. Trying.

About Us…

Lisa Lieberman, PhD

- Professor and Chair of Public Health, Montclair State University

- Consultant, US Office of Population Affairs, NYS Office of Children and Family Services, other policy-based orgs

- Program evaluation researcher (teen pregnancy prevention, pregnant and parenting young women, school-based sex education

- Provide technical assistance and professional development to school districts and Higher Ed

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Title IX

Federal law to prevent sex-based discrimination in schools.
The law requires schools to protect students from sex-based harassment and sexual violence.

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Schools' get more guidance on...

Reporting/Compliance

Than on...

Prevention

Why this imbalance important

Our and others' research demonstrate that:

- Sexual consent education is often too little too late, and not effective with heterosexual cisgender men

- Rape myths continue to persist, despite the political and public discussions of high profile assault cases

Exhibit A

"The [prosecutor] told me: Even if you're married, a woman doesn't fully belong to you."

"Maybe not at all," the judge corrected…

"Yes, women don't belong to men…I hope they'll teach that in schools. It took me 54 years."

New York Times, October 15, 2024

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But there is a Research-Based Solution

Our Research:

School-based sex education that starts early, plays a vital role in promoting sexual health and well-being in young people.

CSE addresses the most common Title IX sexual assault/harassment/discrimination concerns, which can help prevent Title IX violations later.

Notable outcomes related to Title IX Prevention

- **Appreciation of sexual diversity**
- **Dating and interpersonal violence prevention**
- **Child sex abuse prevention**
- **Promotion of healthy relationships**
- **Social emotional learning**
- **Media literacy**

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How Does Sex Education Do All That?

The research is telling us that...

Young men don't rape because they do not know what consent is. They rape because they don't care.

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A New Model for CSE

Intersectional lens focused on equity, fairness, justice, and rights

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Characteristics of Effective Sex Education

- Beginning in early grades
- Developmentally- and age-appropriate spiraled curriculum
- Teaching across the curriculum
- Adequate and specific teacher preparation
- LGBTQ+-inclusive teaching
- Gender-integrated classrooms
- Embedded within broader school initiatives

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Beginning in Early Grades

"Data suggest young children are learning in preschool that boys have gendered power over girls' bodies."
Gansen, (2017) Sociology of Education

- *Young children can develop sex abuse prevention skills w/o increasing anxiety.*

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Beginning in Early Grades

Research shows that by Kindergarten, children have already formed stereotypes and biases related to gender

The early grades may, in fact, be the best time to introduce topics related to sexual identity and expression, gender equality, and social justice related to the LGBTQ+ community

Spiraled, developmentally and age-appropriate content

- **Begun early, before sexual activity begins.**
- **Teaching that builds on previous lessons and grades**
- **Building an early foundation is key to long-term learning**

Teaching Across the Curriculum

- **Sexuality-related issues, questions, and behaviors are not limited to the health classroom**

- **Schools must address these important topics throughout the day and across subject areas.**

Adequate Teacher/School Personnel preparation

- **A wide range of topics arise naturally in every classroom and throughout the school day in all grades**

- **Strong student-adult relationships help in preventing and/or reporting Title IX violations**

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"Instead of trying vainly to protect young children from the discomforts of learning, teachers can gently 'invite [students] into the ongoing predicament' of a world that includes troubles such as homophobia, [sexism, racism, discrimination, etc.]"

Adapted from Letts and Sears, 1999

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LGBTQ+-Inclusive Teaching

Reduces:

- school-based victimization
- homophobic bullying
- adverse mental health outcomes for <u>ALL</u> students

Increases:

- Recognition of gender equity, rights, and social justice

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Gender-Integrated Classrooms

- **Provides an opportunity to practice communicating about sensitive topics with different gender peers**

- **Improves learning conditions for all students**

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Part of Whole School Approach

There is growing evidence that "school belonging" is associated with a range of positive outcomes including:

- Psychological wellbeing
- Prosocial behavior
- Academic Achievement
- Transition to adulthood

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If schools do not deal with children's (sexual) health by design, they deal with it by default

Health is Academic, 1997

Recommendations for Title IX Coordinators and School Leadership

What Does Prevention Look like?

Talking to stakeholders about Benefits of CSE that starts early and is scaffolded across grade levels

✓ Review the <u>National Sex Education Standards</u>

✓ Learn what is covered in each grade and how sex ed. helps to prevent sexual harassment/assault/discrimination.

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Find and Share Resources

A CALL TO MEN

CONSENT (FOR KIDS!) BOUNDARIES, RESPECT, AND BEING IN CHARGE OF YOU

I'M THE RULER OF MY OWN BODY.

RACHEL BRIAN

FREE

LIVE RESPECT AND HEALTHY MASCULINITY CURRICULUM
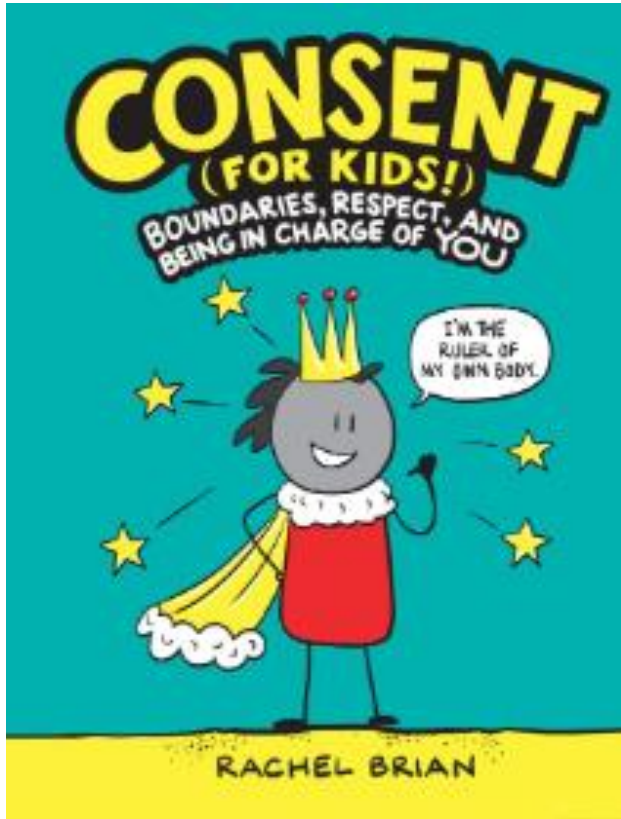
Advocates for Youth

Rights, Respect, Responsibility: A K-12 Sex Education Curriculum

FREE

MONTCLAIR STATE UNIVERSITY

What Does Prevention Look like?

Working with school personnel to:

- ✓ Adapt lesson plans to be fully inclusive

- ✓ Develop inclusive classrooms and become familiar with affirming terminology

- ✓ Prevent and respond to bullying

- ✓ Respond to children's questions and behaviors appropriately

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What Does Prevention Look like?

Working with school personnel to:

✓ Foster ally behavior among students, staff and other adults

✓ Challenge stereotypes and assumptions

✓ Use inclusive language

✓ Identify specific "caring adults"

What Does Prevention Look like?

==**Implementing school-wide policies and Best Practices that:**==

- ✓ Create safe and affirming school climates all students

- ✓ Support inclusive, gender-integrated approaches

- ✓ Establish a School Health Advisory Council

- ✓ Enhance school connectedness, comfort, and safety

e.g. through GSAs, SBHCs, Safe School/Whole School initiatives, and Teacher training

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What Does Prevention Look like?

Exploring How To:

Align sex education programming with Common Core and/or State Learning Standards in Math, ELA, Social Studies, etc.

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Opportunities in Higher Education

Work with Teacher Education Programs to:

- ✓ Prepare all student teachers K-12 (content and pedagogy)
- ✓ Develop scaffolding for appropriate sex ed
- ✓ Talk with student teachers about their experiences in their classrooms

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Opportunities in Higher Education

Work with Student Leaders to:

✓ Expand beyond traditional consent and sexual assault prevention programming

✓ Provide opportunities that meet students where they are

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Sexual learning and socialization inherently happen in school every day.

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Proactive, intentional school policies and programs, that:

Start early, and build across the curriculum and throughout the school day reinforcing values of of equity, inclusion, fairness and justice as a consistent through line from K-College

For Further Reading on our Research:

Three Decades of Research: The Case for Comprehensive Sex Education
Journal of Adolescent Health
2021

After Roe, Sex Ed is Even More Vital
New York Times
2021

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Engaging Boys and Men

Promoting Healthy Manhood for Violence Prevention

acalltomen.org

**Nicole Dillon
(she/her)**

Director of
Youth Initiatives

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**RahK Lash
(he/him)**

Vice President
of Programs

rahk@acalltomen.org
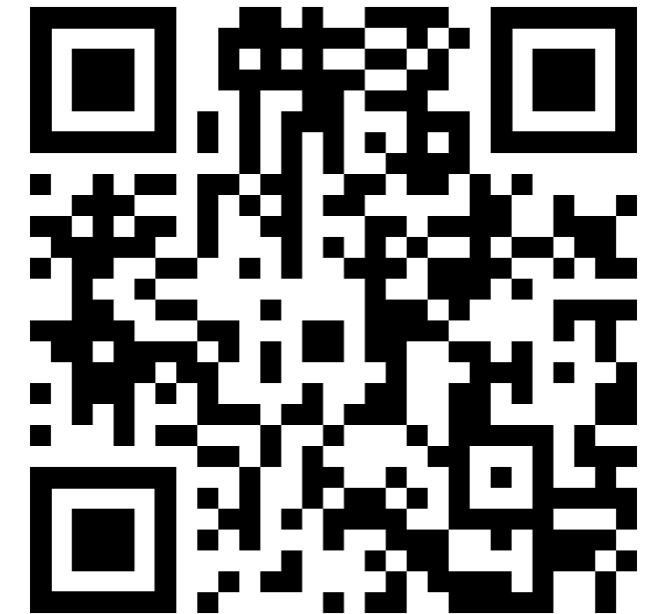
Thank You!

Association of
Title IX Administrators

Our Time Together.

The Man Box

Introduce the work of A Call to Men and articulate the impacts of the Man Box on boys and men within our communities and campuses.

Your Work

Reimagine ideas around support, advocacy, and engagement for boys and men while Influencing the meaningful work you are already doing.

Q&A

Open discussion and dialogue.

Our Relationship to Knowing

I know what I know. ✓

I know what I don't know. ✓

I don't know what I don't know. ✓

I thought I knew but I was wrong. ?

"

Helping create a world where all men and boys are loving and respectful and all women, girls, and those at the margins of the margins are valued and safe.

Our Vision
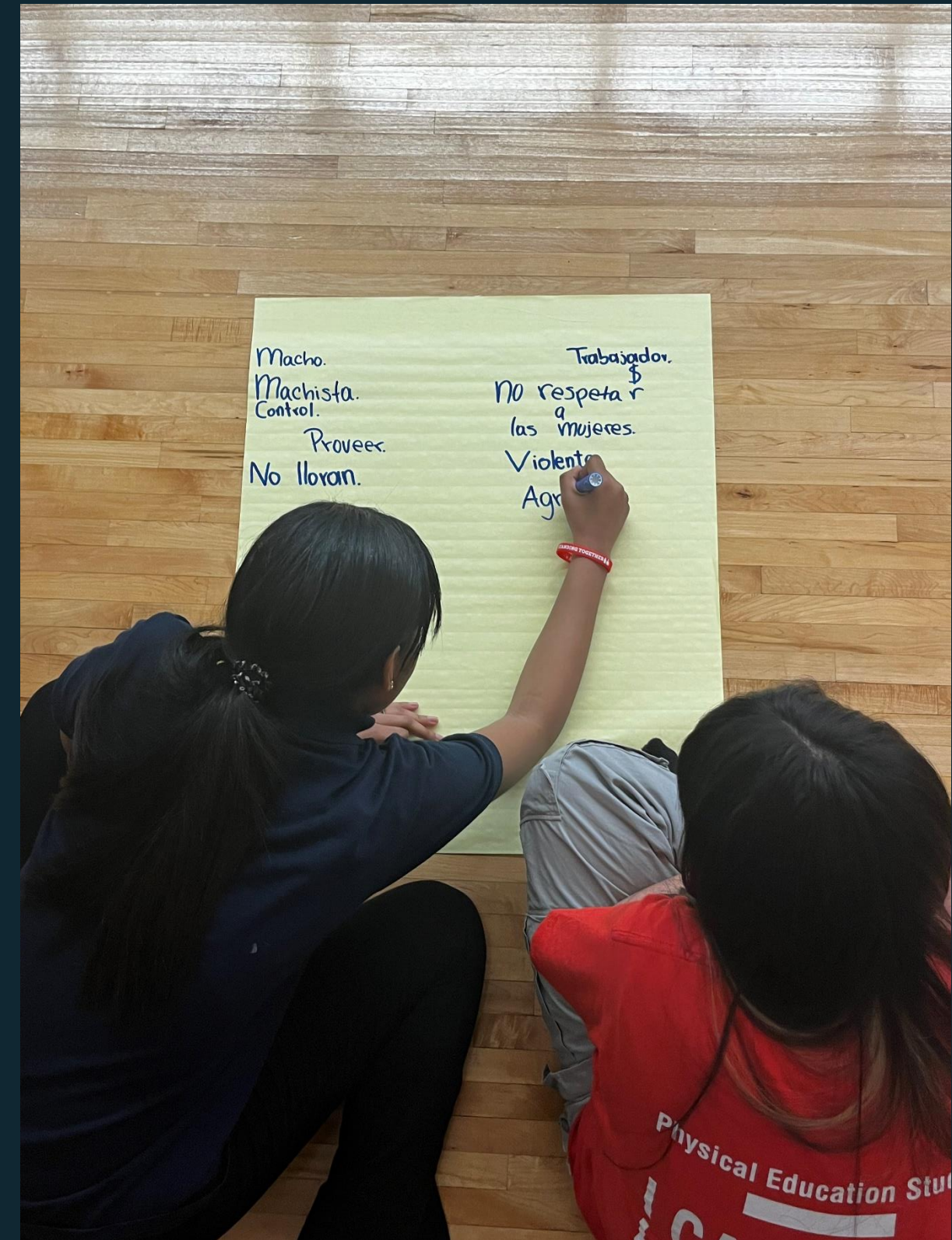
Source: HLN "Watch This Little Champ Take His Shots Like a Man! (Retrieved from YouTube)

"I'm a Man!"

Having Watched the Video:

- What do you like about it?
- What concerns you?
- What would you do the same?
- What would you do differently?
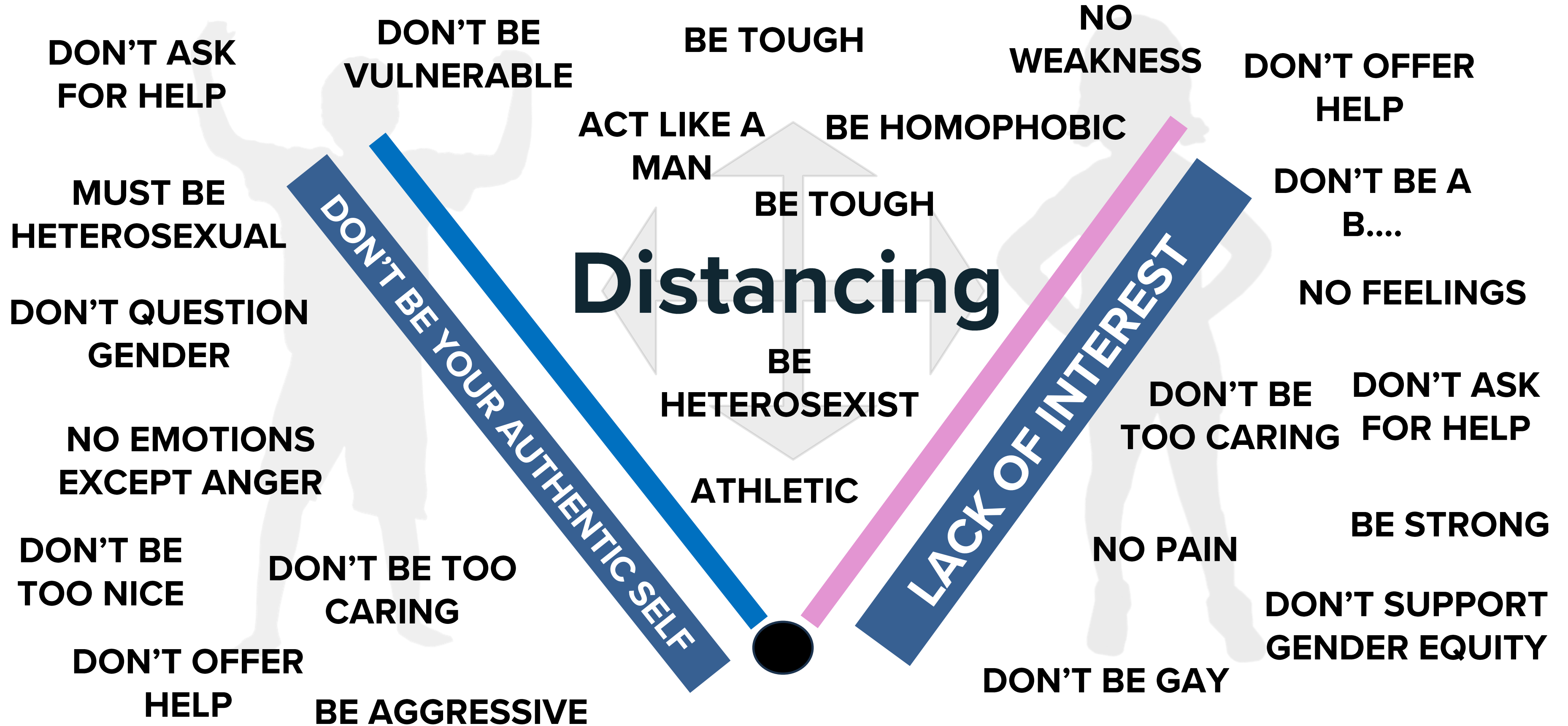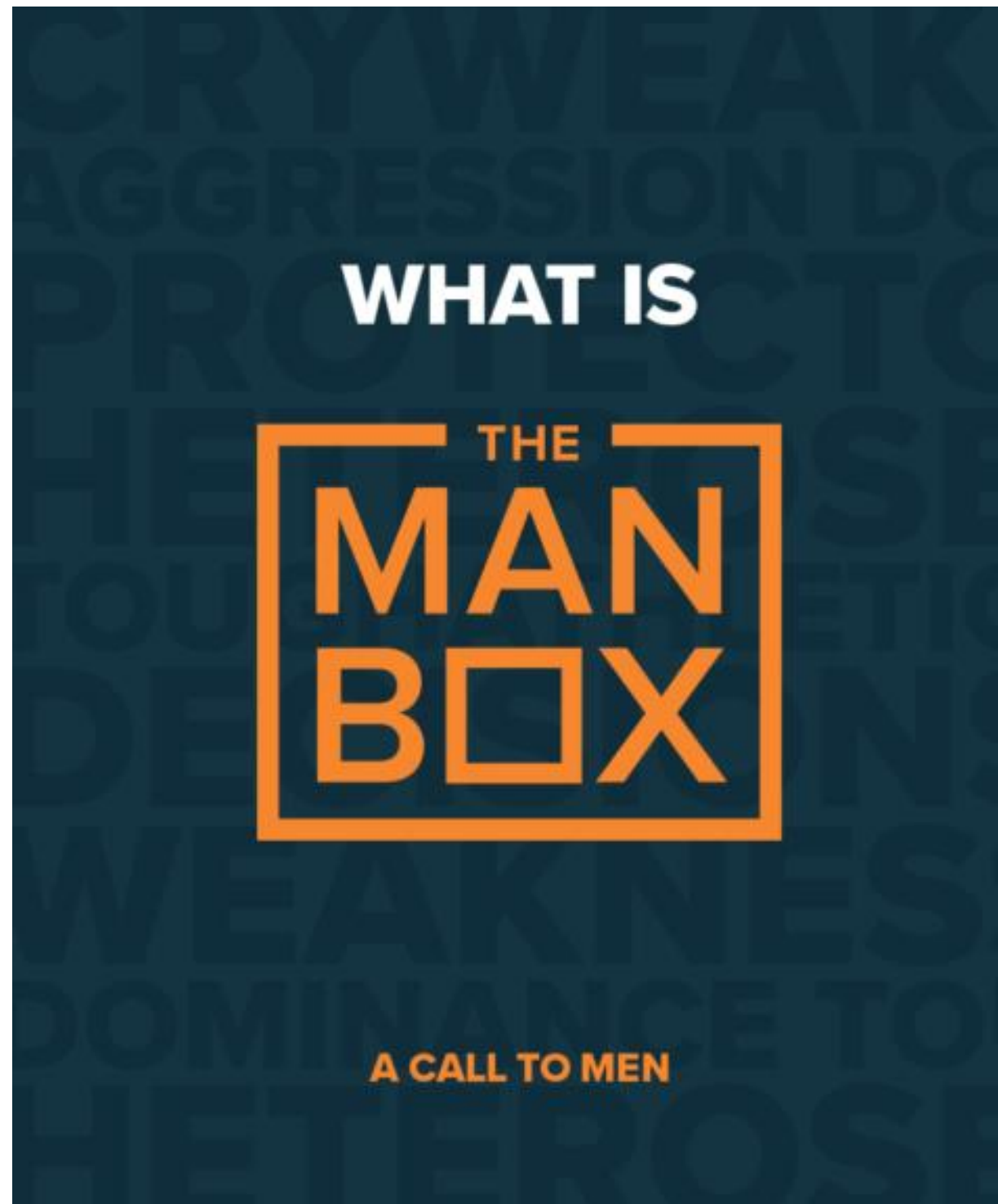
Engaging Men; Grabbing the Hearts of Men.

Inside the Box

Boys & men shouldn't cry or openly express emotion, shouldn't show fear or weakness, don't ask for help, offer it, or accept it.

What It Teaches Us

Women & girls are objects, the property of men, and have less value than men. Aggression equals dominance. "Don't act like a girl."

What's Waiting for Us Outside of the Man Box?

Consequences

When boys and men attempt to break out of the box, implications are prepared to push them back in.

Bullying, name-calling, othering, social immobilization. "Soft; Weak; Man Up, Sensitive."

Reinforcement

Homophobia and heterosexism is the glue that holds the Man Box together.

How many men threw away their joy at some point to survive and get by?

Some Words from Our CEO & Co-Founder

Tony Porter

The Collective Socialization of Manhood

Less Value

Boys and men are taught to distance themselves from the experiences of women and girls.

+

Property

Control, dominance, devaluing, and assigning value through a woman's relationship to another man.

+

Objectification

Viewing women as objects, particularly sexual objects. Sexual conquest.

= Violence Against Women
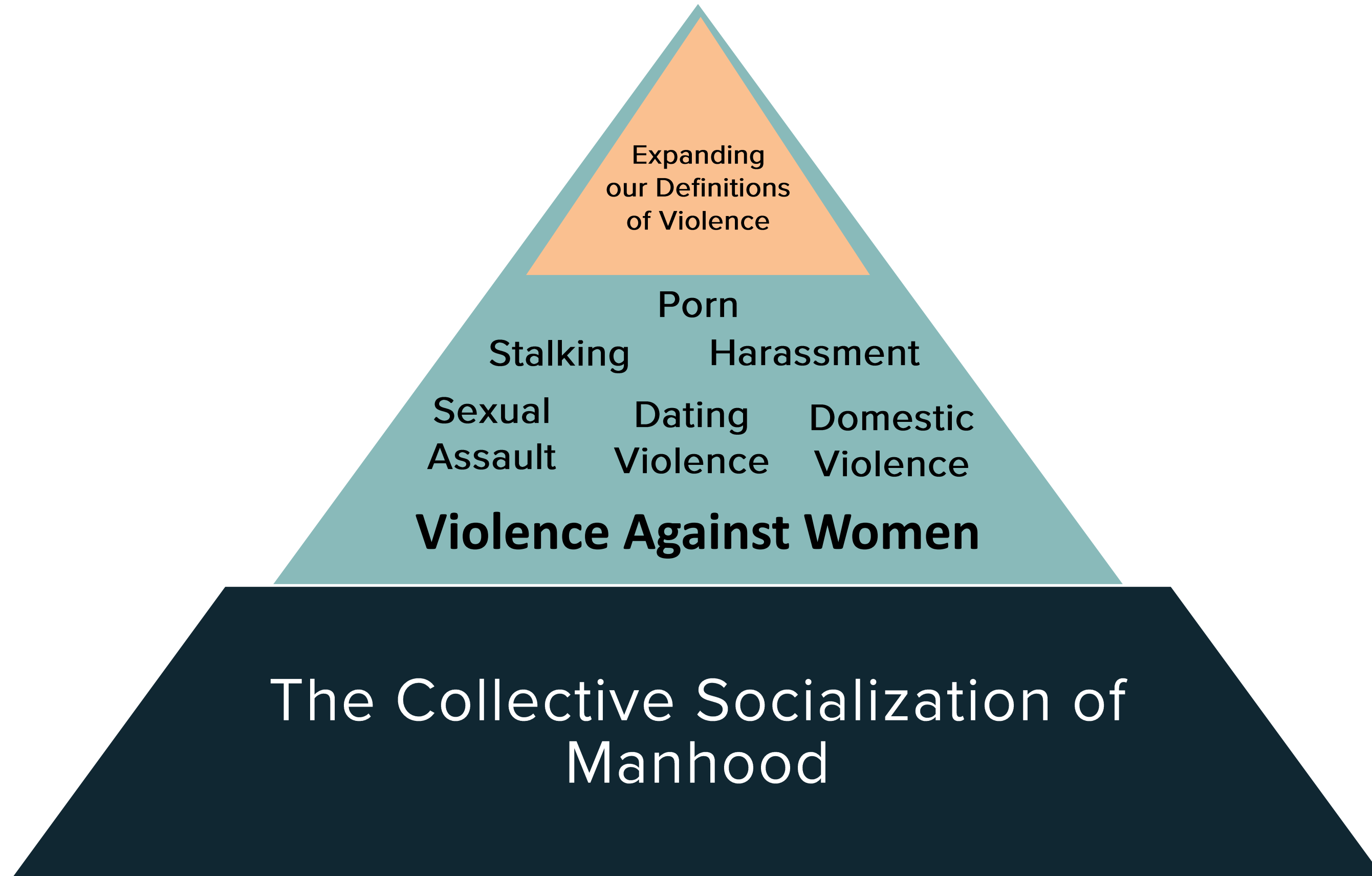
Deepening Our Perspectives

Consider This:

What does this mean for us, our work, and our communities?

Consider This:

What are the challenges, barriers, and opportunity gaps?

"

Healthy Manhood is embracing your emotions, validating emotions in other men, respecting girls & women, and pursuing gender equity.

A Call to Men

Cycle of Consequences Model

LIMITED EMOTIONAL INTELLIGENCE

+

INABILITY TO ASK FOR HELP

=

MENTAL HEALTH CHALLENGES
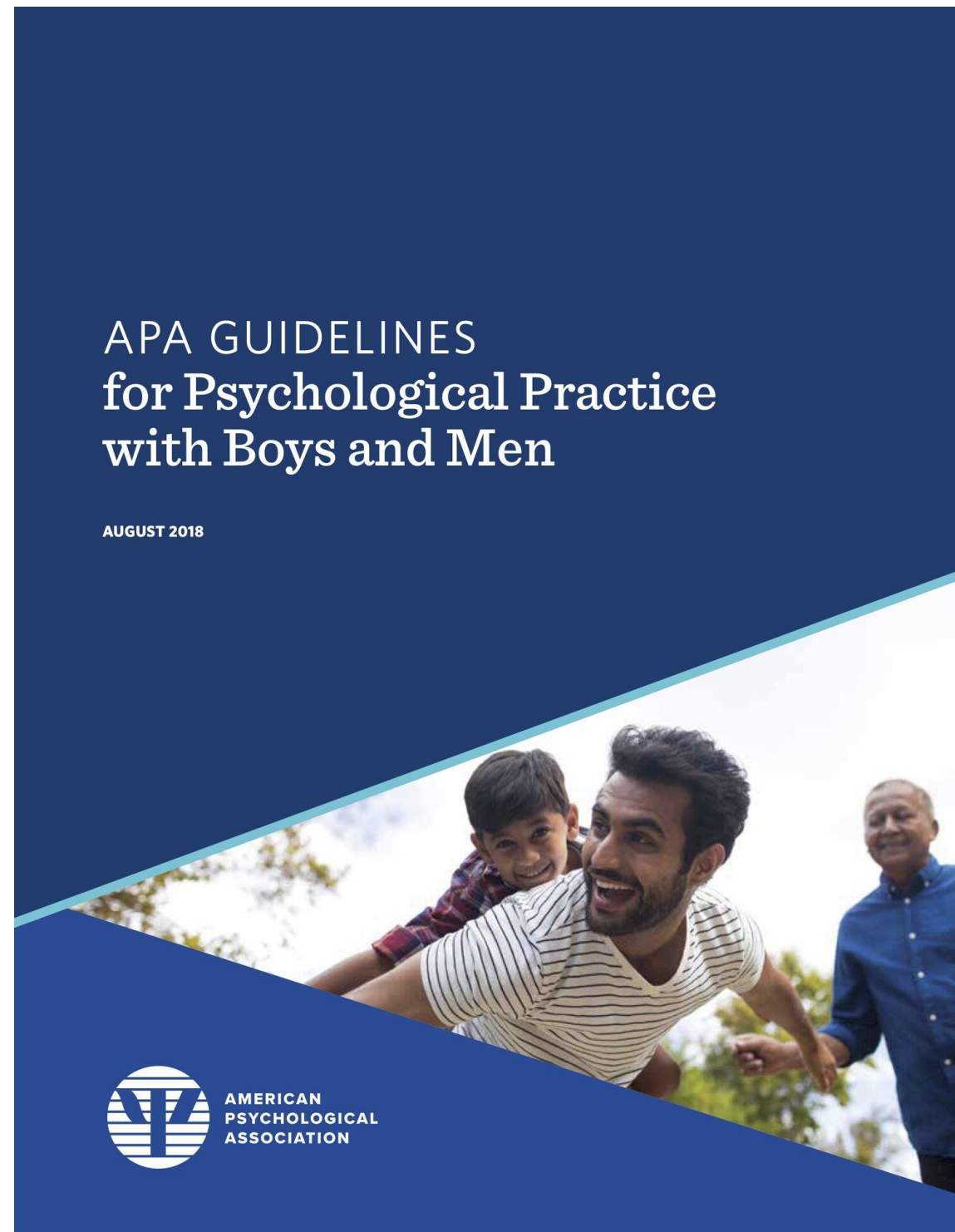
- 1 in every 10 men experiences depression or anxiety.

- Men are more likely to say they are tired, stressed, or bored than admit to feelings of sadness and worthlessness.

- Male suicide has been on the rise since 2000, and 4 times as many men die from suicide than women.

- Gay and bisexual men are more likely to have a serious mental illness (SMI), and are at an increased risk for suicidal thoughts, plans, and attempts.

Center for Disease Control. (2023). Suicide data and statistics

Anxiety and Depression of America. (2023). Men's Mental Health

Substance Abuse and Mental Health Services Administration. (2023). Lesbian, Gay, Bisexual Behavioral Health: Results from the 2021 and 2022 National Surveys on Drug Use and Health.

- Men who report having traditional views of masculinity are less likely to get consistent health care

- More than 40% of men don't go to the doctor at all unless they have a serious health issue

- And when they do go to the doctor, men are less likely to be honest with their doctor about their health history and current symptoms

- This is a core reason why the average life expectancy of men is five years shorter than it is for women

Center for Disease Control. (2022). Mortality in the United States 2022

Cleveland Clinic. (2019). Cleveland Clinic Survey: Men will do Almost Anything to Avoid Going to the Doctor.

Trauma and Male Socialization

- More than 30% of man have experienced some form of contact violence

- 80% of men who perpetrate domestic violence were also childhood victims and/or witnessed the violence

- 62%-87% of incarcerated adult males have experienced trauma exposure at some point in their lifetime, prior to incarceration

- Men with disabilities are at an increased risk of sexual violence. 1 and 4 men who experienced sexual violence other than rape had a disability at the time of victimization.

- Data from 17,000+ subjects found compelling connections between ACE scores of 4+ and smoking, COPD, hepatitis, IV drug use, depression, suicide attempts, heart disease, fractures, diabetes, obesity, unintended pregnancies, STIs, and alcoholism

- All of the above are coupled with limited emotional intelligence and the inability to ask for help

Center for Disease Control (2017). The National Intimate Partner and Sexual Violence Survey

Sexual Violence and Intimate Partner Violence Among People with Disabilities

Culture Shifts Towards Healthy Manhood

Deepening Our Perspectives

Consider This:

What does this mean for us, our work, and our communities?

Consider This:

What are the challenges, barriers, and opportunity gaps?

Barbershop Culture: Strategies for Overcoming Social Barriers to Implementing Social Change – Fear, Conflict, Domination, etc...
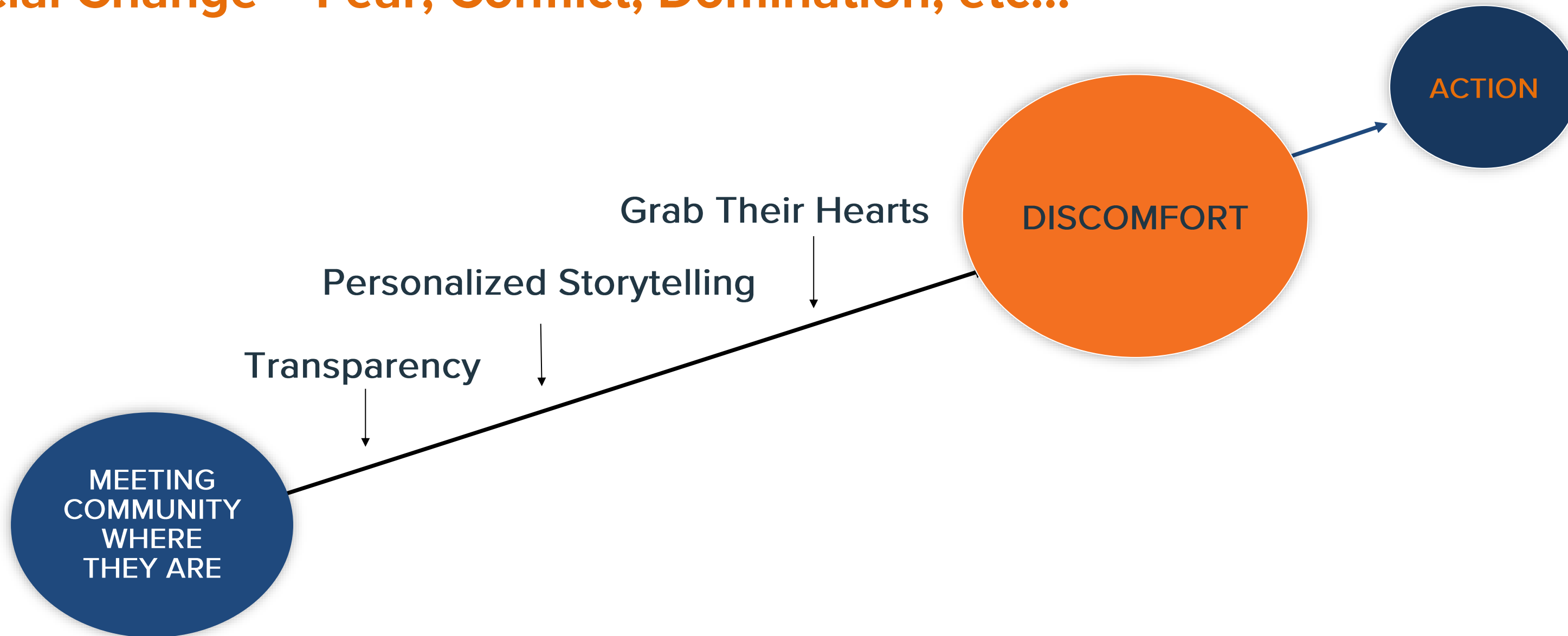
TAKE AWAYS

Surprised

Verified

Concerned

Challenged

Excited

Consider This: Engaging Boys and Men

A resource to support and further inform your current programming and engagement or generate ideas for starting points.

Engaging. Embracing. Accountability.

Our Work

We Educate On

Healthy relationships, consent and sexual violence prevention, and allyship to marginalized groups.

Pro-Devo

We work through a lens of racial and gender justice and are prepared to support professional development spaces.

School Community

We work with students, teachers, and staff to develop points of engagement over an academic year.

Leading. Empowering. Supporting.

Our Work

Training Institutes

Helping create meaningful impact in your work and aspiring allyship practice.

Custom Offerings

From a one-hour session to a multi-day institute or engagement across semesters.

Affinity Spaces

Opportunities to find community for Black women, Asian men, Indigenous men, and white men

A Call to Coaches

A monthly virtual huddle-up facilitated by coaches, former pro athletes, and A Call to Men leaders — where coaches can learn, connect, and recognize their role in molding boys and young men into responsible and respectful individuals.

Healthy Manhood Mondays

#DearMen
@acalltomen

A Starting Point

Wondering how to start a conversation or begin engaging?
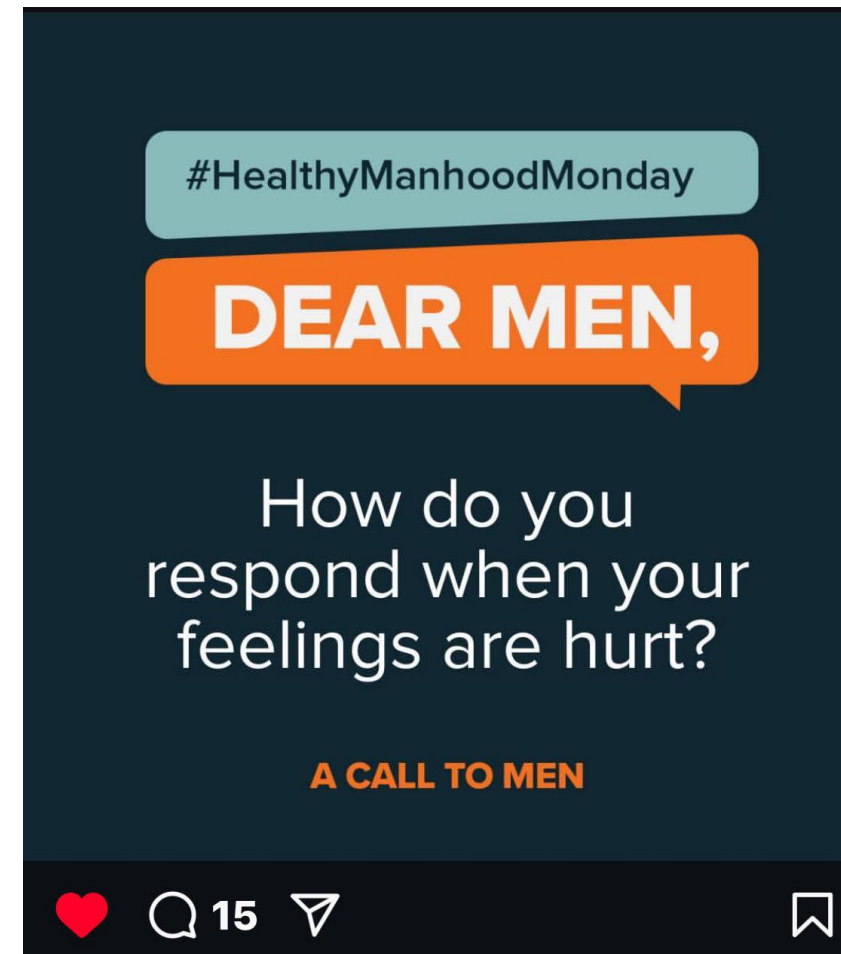
Generate Ideas

The responses may inform new directions and ideas specific to your community.
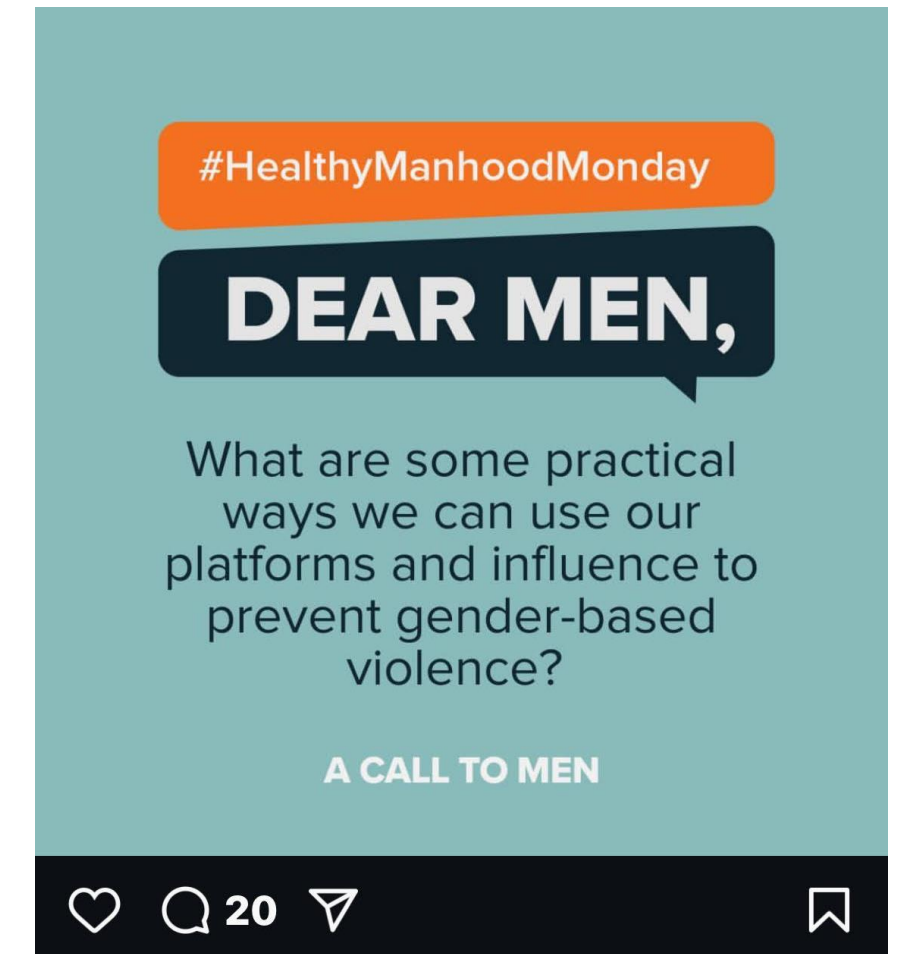
Ritual

Introducing something they might look forward to.
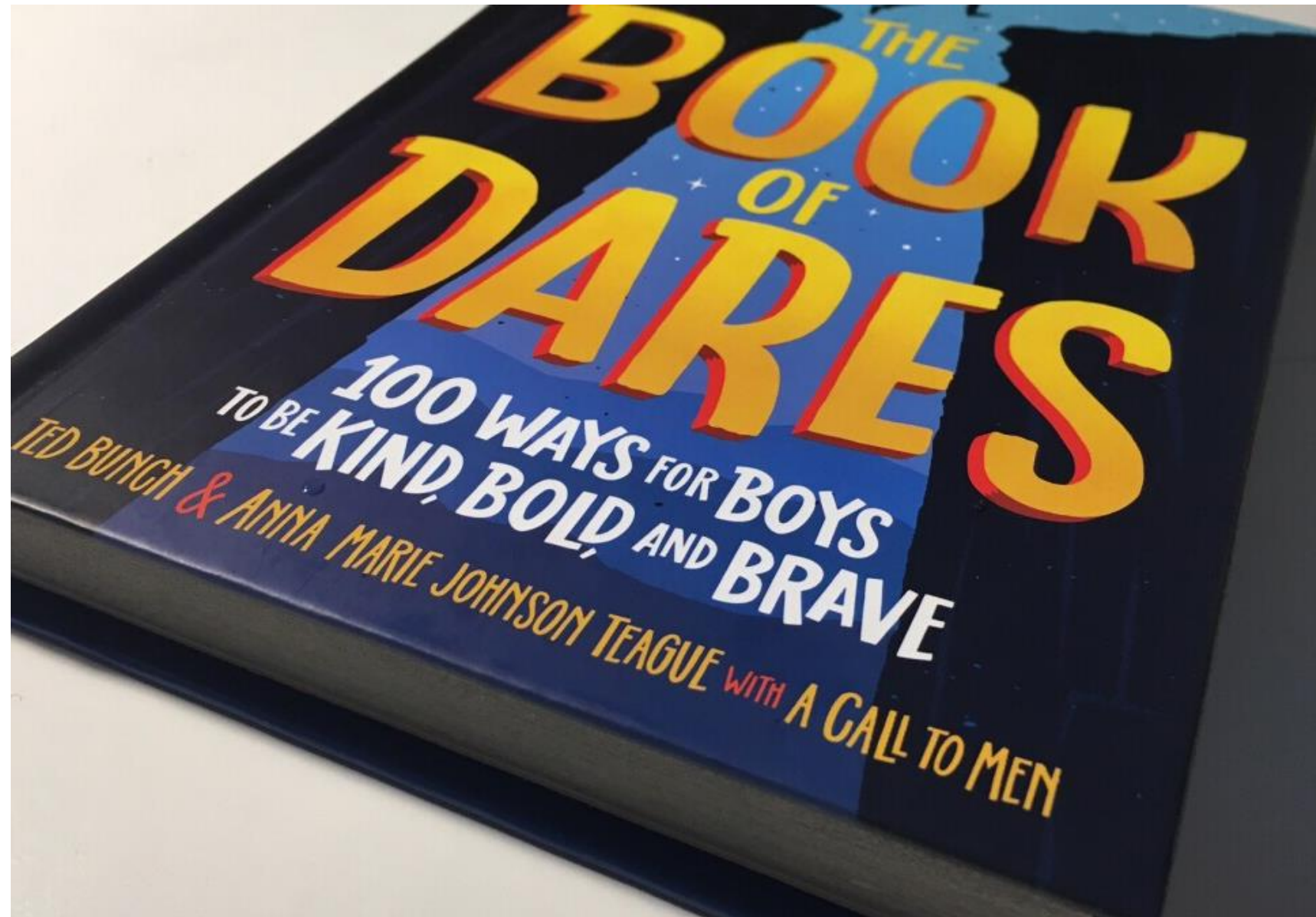
Kind. Brave. Bold
The Book of Dares

To make every boy's lived experience the best it can be, we have to be intentional about encouraging their authenticity, helping them develop empathy, educating them on healthy relationships, promoting emotional literacy, and supporting social-emotional learning.

After 20 years of working with and educating men and boys, We've turned pillars of healthy manhood into 100 dares that support boys' authenticity and advance gender equity.

PRINCIPAL CENTER RADIO
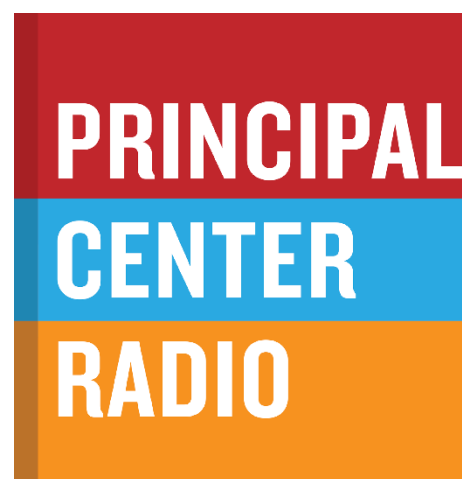
Take a Guess: Pre-Survey 300 Boys

"I Understand Consent"	?%
"Taught that Women Have Less Value"	?%
"The Man Box Exists & Impacts Me"	?%

LIVERESPECT
AND HEALTHY MASCULINITY CURRICULUM
A Program for Middle & High School Boys

Their Response: Pre-Survey 300 Boys

"I Understand Consent"	19%
"Taught that Women Have Less Value"	16%
"The Man Box Exists & Impacts Me"	68%

LIVERESPECT
AND HEALTHY MASCULINITY CURRICULUM
A Program for Middle & High School Boys

Their Response: Post-Survey 300 Boys

"I Understand Consent"	75%
"Taught that Women Have Less Value"	74%
"The Man Box Exists & Impacts Me"	99%

A Free Educational Resource.

- promoting healthy, respectful manhood
- decreasing language and actions that degrade women, girls, and other marginalized groups
- challenging harmful cultural and social norms
- decreasing instances of bullying and homophobia
- promoting healthy relationships

Q&A

nicole@acalltomen.org
rahk@acalltomen.org

acalltomen.org
Follow & Tag us @acalltomen

Featured Session Overview

Context
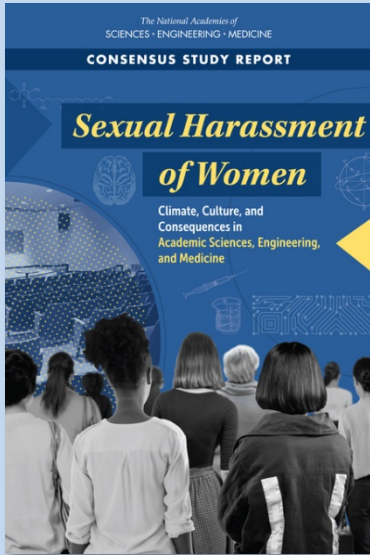
Foundation

Deep Dives

About the Action Collaborative on Preventing Sexual Harassment in Higher Education

Created in April 2019, the Action Collaborative grew out of a desire among higher education institutions to collaborate and learn from each other as they worked to act on the findings and recommendations from the National Academies' Sexual Harassment of Women report.

Key Recommendations for Higher Education Institutions

Make systemwide changes that address the systems, cultures, and climates that enable sexual harassment to perpetuate:

- Address the most common form of sexual harassment: gender harassment

- Create diverse, inclusive, and respectful environments

- Diffuse the hierarchical and dependent relationship between trainees and faculty

- Improve transparency and accountability

- Provide support for targets

- Strive for strong and diverse leadership

Recognizing All Types Of Sexual Harassment

SEXUAL COERCION

using professional threats or rewards to get sexual favors

UNWANTED SEXUAL ATTENTION

sexual assault

rape

unwanted groping or stroking

PUBLIC CONSCIOUSNESS

GENDER HARASSMENT

relentless pressure for sex or dates

nude images posted at work

unwanted sexual discussions

sexually humiliating acts

sexual insults, gender slurs, and vulgar name calling
e.g. "whore," "pu**y," "slut," "bitch"

offensive sexual teasing or remarks about bodies

sexist insults
e.g. women don't belong in science

sabotage of women's equipment

obscene gestures

NATIONAL ACADEMIES Sciences Engineering Medicine

Key Recommendations for Higher Education Institutions

Make systemwide changes that address the systems, cultures, and climates that enable sexual harassment to perpetuate:

- Address the most common form of sexual harassment: gender harassment

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- Improve transparency and accountability

- Provide support for targets

- Strive for strong and diverse leadership

NATIONAL ACADEMIES *Sciences Engineering Medicine*

Goals of the Action Collaborative

1. Facilitate and inform action on preventing and addressing harassment;

2. Share and elevate evidence-based policies and strategies for reducing and preventing sexual harassment;

3. Advance research on sexual harassment prevention, and gather and apply research results across institutions;

4. Raise awareness about sexual harassment and its consequences, and motivate action to address and prevent it; and

5. Assess progress in higher education toward reducing and preventing sexual harassment in higher education.

Public Resources from the Action Collaborative

Summit: Annual open forum for identifying, discussing, and elevating innovative and promising approaches – Presentation and Materials available online

Publications: Working Groups, composed of representatives from the Member Institutions, work together to gathering information on research and practices and produce publications that can inform and enable action.

Rubric: List of the areas of work that align with the findings and recommendations from the National Academies 2018 report on *Sexual Harassment of Women*

Repository of Work: Collection of the most significant, novel actions that each Action Collaborative institution has taken

NATIONAL ACADEMIES *Sciences Engineering Medicine*

http://nationalacademies.org/sexual-harassment-collaborative

EXPLORING SANCTIONS AND EARLY INTERVENTIONS FOR FACULTY SEXUAL HARASSMENT IN HIGHER EDUCATION (2022)

This paper lays out the challenges and current landscape for how higher education deals with harassment by faculty members and notes some ways in which academic administrators may intervene and hold tenured or tenure-track faculty accountable for harmful behaviors that are not deemed institutional or legal violations.

9

Collaborative Publications from the Action Collaborative

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS (2023)

This paper explores different approaches to developing, implementing, and evaluating the efficacy of sexual harassment bystander intervention trainings for faculty, staff, and graduate students.

INNOVATIVE PRACTICES TO STOP PASSING THE HARASSER (2022)

Two innovative practices from the University of Wisconsin System and the University of California, Davis provide comprehensive descriptions of policies and practices for stopping what is called "passing the harasser." The publications detail how the policies work and what processes were used to develop and implement them, with the aim of enabling other organizations to adapt and apply it to their own environment.

Universities of Wisconsin System

University of California, Davis

EXPLORING POLICIES TO PREVENT "PASSING THE HARASSER" IN HIGHER EDUCATION (2023)

This paper explores decision points around the development and implementation of policies to prevent the practice known as "passing the harasser."

NATIONAL ACADEMIES
*Sciences
Engineering
Medicine*

10

Collaborative Publications from the Action Collaborative

APPROACHES TO THE EVALUATION OF SEXUAL HARASSMENT PREVENTION AND RESPONSE EFFORTS (2023)

This paper provides an introduction to methods and approaches for evaluating interventions designed to prevent and respond to sexual harassment in their institutions.

GUIDANCE FOR MEASURING SEXUAL HARASSMENT PREVALENCE USING CAMPUS CLIMATE SURVEYS (2021)

This paper provides guidance for measuring the prevalence of sexual harassment using campus climate surveys. Using decades of research on sexual harassment, it identifies key considerations for each step in the climate assessment process.

EVALUATING THE EFFECTIVENESS OF INTERVENTIONS TO PREVENT AND ADDRESS SEXUAL HARASSMENT: PROCEEDINGS OF A WORKSHOP (2021)

On April 20-21, 2021, the National Academies of Sciences, Engineering, and Medicine hosted the workshop Developing Evaluation Metrics for Sexual Harassment Prevention Efforts. The workshop explored approaches and strategies for evaluating and measuring the effectiveness of sexual harassment.

This was conducted under the auspices of the Committee on Women in Science, Engineering, and Medicine, but involved several members of the Action Collaborative.

NATIONAL ACADEMIES *Sciences Engineering Medicine*

Collaborative Publications from the Action Collaborative

PREVENTING SEXUAL HARASSMENT AND REDUCING HARM BY ADDRESSING ABUSES OF POWER IN HIGHER EDUCATION INSTITUTIONS (2023)

This paper examines the types of power differentials in academia, how abuses of power can take the form of sexual harassment, and strategies for preventing and remediating such abuses.

APPLYING PROCEDURAL JUSTICE TO SEXUAL HARASSMENT POLICIES, PROCESSES, AND PRACTICES (2022)

This paper explores how a procedural justice framework could help guide improvements and revisions to policies, processes, and practices within higher education institutions with the potential to mitigate the negative experiences and outcomes of those affected by sexual harassment.

PREVENTING AND ADDRESSING RETALIATION RESULTING FROM SEXUAL HARASSMENT IN ACADEMIA (2023)

This paper discusses the existing legal protections for retaliation directed at those who experience or report sexual harassment in higher education. It discusses the conditions that enable retaliation to occur, negative consequences of retaliation, and policies and practices that may help prevent retaliation.

NATIONAL ACADEMIES
Sciences
Engineering
Medicine

12

Action Collaborative on Preventing Sexual Harassment in Higher Education

Website:

nationalacademies.org/
sexual-harassment-
collaborative

Email:

Kait Spear
Program Officer
kspear@nas.edu

NATIONAL ACADEMIES
Sciences
Engineering
Medicine

Exploring Sanctions and Early Interventions for Faculty Sexual Harassment in Higher Education

Definitions

Sanctions	Early Interventions
"Formal disciplinary actions imposed following a formal investigation and finding of responsibility, such as suspension, salary reduction, demotion, removal of privileges, or termination of employment."	"Responsive actions (e.g., corrective, rehabilitative, restorative, or monitoring measures) designed to (1) correct the harmful, sexually harassing behaviors by the accused faculty member before they rise to the level of a policy violation and (2) address the harm caused to the harmed party."

Sanctions and Early Interventions

Behavior: *Violation of policy*	→	Formal Complaint	→	Formal Investigation & Finding	→	**Sanctions**

Sanctions

Examples: Suspension, salary reduction, removal of privileges, termination, etc.

Behavior: *Limited impact "mistake" that is inconsistent with organizational standards* → **Informal Disclosure** →

Early Interventions

Examples: Informal conversations, social norming, explanation of behavioral expectations, etc.

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Sanctions and Early Interventions

Behavior: *Violation of policy* → **Formal Complaint** → **Formal Investigation & Finding** →

Sanctions

Examples: Suspension, salary reduction, removal of privileges, termination, etc.

Behavior: *Limited impact "mistake" that is inconsistent with organizational standards* → **Informal Disclosure** →

Early Interventions

Examples: Informal conversations, social norming, explanation of behavioral expectations, etc.

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Faculty Sexual Harassment in Higher Education

Consequences of Faculty Sexual Harassment	*Characteristics of Higher Ed*
• Decreased mental health and well-being • Education limitations • Disruption to academic career advancement	• Academic star culture • Academic hierarchal systems • Strong due process protections • Not equipped to respond to incidents that do not constitute a policy violation

Current Challenges

Coordination

Transparency

Consistency

Accountability

Lack of Coordination in Documenting Faculty Sexual Harassment

- **Multiple entities (individuals and offices) are involved** in receiving and handling reports of sexual harassment

- The decentralized processes for receiving and documenting both formal complaints and informal disclosures of sexual harassment can result in **outdated, inaccurate, and incomplete records**

- Some institutions also **lack centralized mechanisms** (e.g., shared software or hotspot mapping) for documenting and tracking reports

- Cases or incidents may not always be reported

- The lack of sexual harassment documentation could potentially contribute to the problem of **"passing the harasser"**

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Lack of Transparency in Responses to Faculty Sexual Harassment

- **Factors that impact level of transparency**

    - Employees' rights to privacy and discretion;

    - The purpose for sharing the information;

    - Differing requests for privacy by harmed parties,

    - The potential impact on the reintegration of rehabilitated faculty;

    - Federal and state laws and regulations;

    - Contractual legal agreements;

    - Federal funding agencies; and

    - Professional societies.

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Lack of Consistency in Responses to Sexual Harassment

Lack of consistency in guidelines → Lack of consistency in responses and documentation → Inability to evaluate responses → Inability to determine effectiveness and equitability → Lack of institutional trust
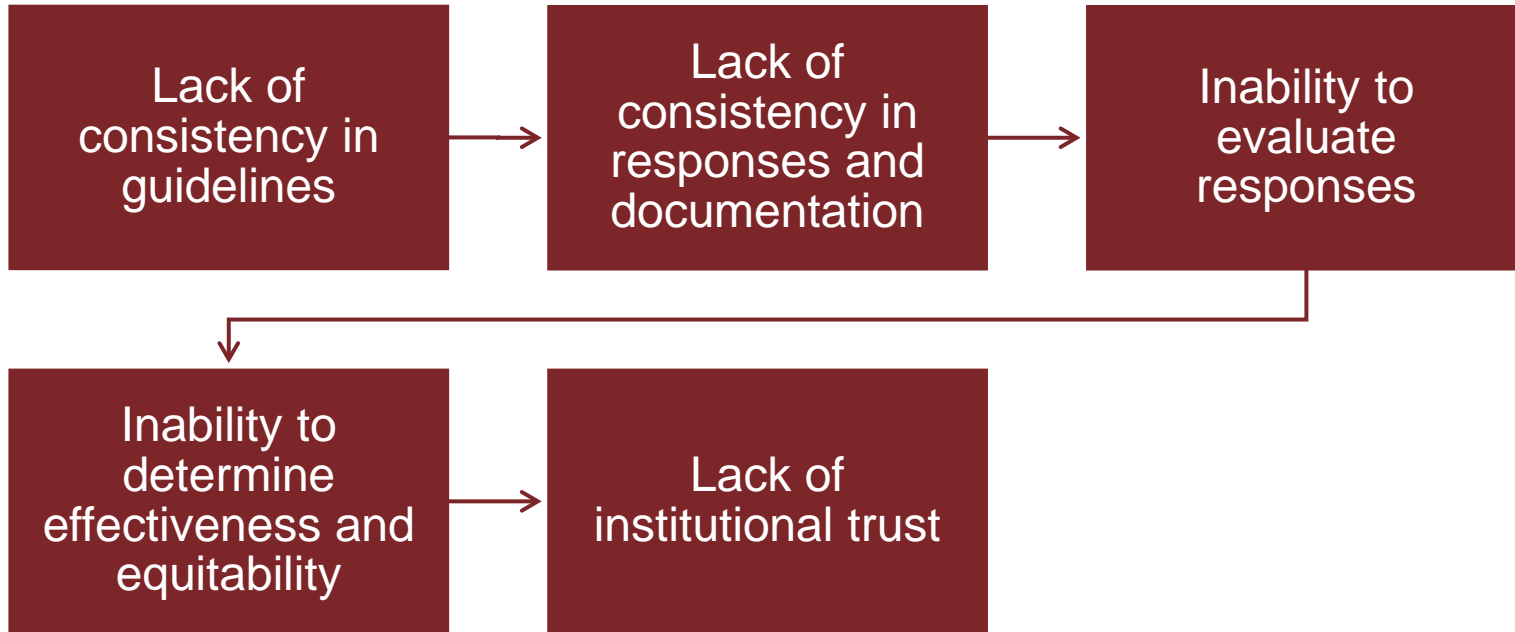
Lack of Focus on Correcting Behavior through Accountability

- Many institutions have placed **insufficient emphasis** on early intervention and have **underdeveloped systems for early intervention**

- The processes to implement early intervention are often inconsistent and **lack of clear guidelines on the range of actions** that can be taken

- A lack of guidance can result in "well-meaning" interventions with **the potential to cause harm**

Early Interventions to Correct Behavior Through Accountability
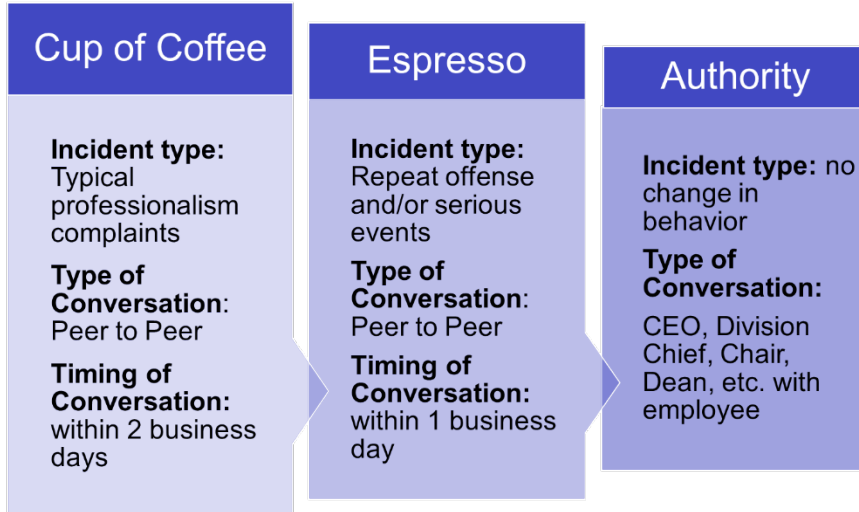
FIGURE 1. Tiered intervention process for the "cup of coffee" program at Duke Health System, designed to address disruptive behaviors through peer accountability.

SOURCE: Adapted from Rehder, 2020.

- The University of California, Davis, has instituted a mechanism called **"documented discussions"** (UC Davis, 2019).

- The **"cup of coffee"** program is used in the Duke Health System and based on a model developed at Vanderbilt University (Hickson et al., 2007).

Current Challenges

Coordination

Transparency

Consistency

Accountability

Action Collaborative on Preventing Sexual Harassment in Higher Education

Website:

nationalacademies.org/ sexual-harassment- collaborative

NATIONAL ACADEMIES *Sciences Engineering Medicine*

Can a cup of coffee be your fire prevention plan?

Brijen J. Shah, MD

VP Medical Affairs and Associate Dean for GME

ATIXA Conference

October 29, 2024

Learning objectives

Describe features of an early peer-based response system for mistreatment.

Illustrate the value of a leadership huddle as part of an early response system.

Acknowledgements

COPHE team:

- Rebecca Anderson
- Michael Broadman
- Melissa Peralta

- Center for Patient and Professional Advocacy:
- Tom Catron
- Bill Cooper
- Brittany Jenkins

Case

Dr. Sarah Johnson, a dedicated and skilled resident, is preparing for a critical surgical procedure under the supervision of Dr. Mark Thompson. Throughout her residency, she has consistently demonstrated her competence and commitment. However, during a pre-operative meeting, Dr. Thompson begins to overshadow her contributions.

As Dr. Johnson presents her surgical plan, Dr. Thompson frequently interrupts her, dismissing her suggestions and redirecting the conversation toward the opinions of male colleagues in the room. He makes comments like, "I think we should stick with what the experienced surgeons suggest," implying that Sarah's input is less valuable due to her gender.

When Dr. Johnson tries to assert her ideas, Dr. Thompson rolls his eyes and states, "This isn't the time for experimentation," further undermining her confidence in front of the team. The atmosphere becomes tense, and other resident physicians notice the dynamic but feel uncomfortable intervening.

At your institution, if this situation were reported, what would happen next:
   a.   A formal investigation
   b.   Nothing
   c.   Referral to a leader for intervention
   d.   A peer would give feedback

Provider Feedback is the Missing Link

"Big P"

Little "p" events

Serious adverse events

▼

Provider root cause

▼

Coaching or practice evaluation

COPHE Program Overview

COPHE uses a data-driven, evidenced based approach to provide systematic feedback to providers on unprofessional behaviors to promote self- and group-regulation

Co-Worker Observation Reporting System (CORS)

- Launched July 2021

- Audits Safety Net, Mistreatment Portal, OB Code, Compliance Helpline to identify behavior concerns of providers

- Relies on unsolicited **co-worker observation reports**

- **Cup of Coffee Intervention**: Trained peer messenger delivers a single report and lets the receiver know the behavior/ performance was observed

- **Awareness Intervention** when pattern is observed

Patient Advocacy Reporting System (PARS)

- Launched December 2022

- Audits patient complaint database to identify sources of dissatisfaction

- Relies primarily on **unsolicited patient complaint reports**

- **Awareness Conversation Intervention:** Trained peer messenger communicates that there is a pattern of observed behaviors/performance (based on cumulative data)

Promoting **Professionalism** Pyramid
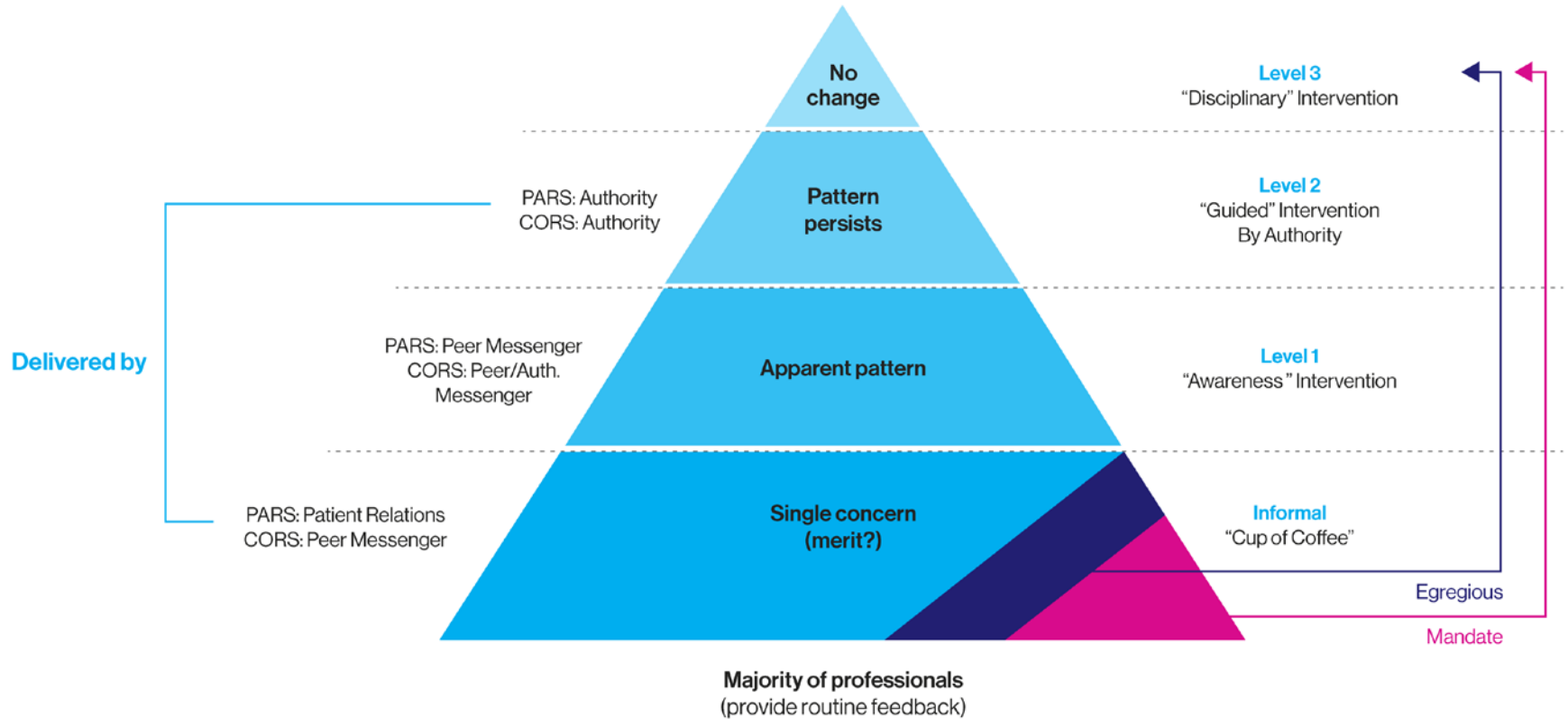
Hickson GB, Pichert JW, Webb LE, Gabbe SG. A complementary approach to promoting professionalism: Identifying, measuring, and addressing unprofessional behaviors. Acad. Med. 2007 Nov;82(11):1040-1048.

COPHE Data Overview: CORS

Between July 1, 2021 and October 11, 2024:

- **125** trained peer messengers

- **980** Total CORS Reports To Date

- **637** Cups of Coffee delivered

- **298** Huddles convened

- **60%** of reports about Attendings, followed by **24%** Residents/Fellows and **10%** APPs

- **11%** of reports from the Compliance Hotline, **22%** from Mistreatment Portal, **59%** from SafetyNet

- Top 5 specialties involved include **OBGYN, Cardiology, Anesthesiology, Emergency Medicine, and General Surgery**

COPHE Data Overview: CORS

<u>Bias and Discrimination Code:</u> The reporter expresses concern about a professional's discriminatory or harassing behavior.

Includes:

- Unwanted/inappropriate sexual comments
- Inappropriate touching
- Sexual harassment
- Discriminatory, biased, or derogatory comments or actions or false assumptions based on another's race, ethnicity, religion, age, gender, sexual orientation, or disability.
- Allegations of retaliation

Report Status	Count
Cup of Coffee Assigned	69
Escalated/ Locally Addressed	103
Pending Messenger Assignment / Delivery Assignment Unknown	0
No Assignment Due to Departure	1
Total	173

*Distinct report count = 163

What Peer Messengers Can Tell Us About Professionalism

- We coded 424 messenger reports submitted between July 2021 to December 2022

- Attending, APP and Trainee messengers report similar themes, though most feedback is about Attendings

- Many recipients receptive to feedback, acknowledging unprofessional behavior and showing insight/reflection

Common Themes in Messenger Feedback

Horizontal bar chart with categories (top to bottom):
- Well-being: ~1
- Concern that report filed in retaliation: ~4
- Concern for medical care/patient…: ~5
- Concern for systems issues: ~6
- Denial: ~7
- Gratitude/Appreciation: ~9
- Deflection: ~10
- Defensive: ~13
- Process of Conversation: ~15
- Emotional Reaction: ~24
- Action Steps: ~25
- Insight/Reflection: ~28
- Receptive to feedback: ~59

X-axis: 0, 10, 20, 30, 40, 50, 60, 70

CORS Messenger Feedback

- "She stated that she "had a bad moment" because of feeling the stress of handling multiple issues at the same time. She is aware that perception is everything and that exhibiting professionalism is key to being a good provider." – P.S.

- "Employee was open and willing to partake in the conversation…She took ownership of her words and does think she could have acted better in some of the instances. She felt she can address her team in a more productive way while staying true to herself and will take time to reflect on that."." – J.B.

- "He acknowledged what happened and that the interaction had opportunity for improvement." – P.D.

- "Dr. T listened respectfully to the information shared from the report. While he strongly disagreed with the characterization of his behavior from the report...he did acknowledge that it is important to demonstrate a culture of respect...But overall, he was respectful in our discussion and acknowledged that he will take time to reflect on the situation and how it was perceived by the other party." – S.M.

Elements for a Feedback Conversation

OPENING	SHARE FEEDBACK	RESPOND	CLOSE	PUSHBACK
"You are an important team member.." "I observed…"	Describe what was observed Avoid seeming judgmental "This behavior does not appear to be consistent with our values and commitment to safety…" "I know there are two sides…" Pause	Pushbacks Questions Emotions Avoiding the pivoting "but"	Express appreciation Ask to reflect Encourage alternative response in future	Deflection Denial Dismissal

Know the mission • Stay on the mission • Don't expect thanks

Anticipate Pushback

Deflection

Dismissal

Distraction

It's Not a Control Contest

Features of a system

Shared leadership with the target group

Training, education and feedback

Data collection

Senior leadership support

Fidelity to process

Case

Dr. Thompson had two more episodes in the next two months with similar behavior. One report was entered into your facility's event reporting system and the other was verbally reported to a clinical leader.

At this point, what do you recommend doing?
  a. A formal investigation
  b. Nothing
  c. Conduct a climate review of the department
  d. Ask the leader to address this

Triggers for a Huddle

Baldwin C et al. Huddles for Unprofessional Behaviors in the Healthcare Setting That May Require Immediate Investigation, Inquiry, or Intervention . Under Review.
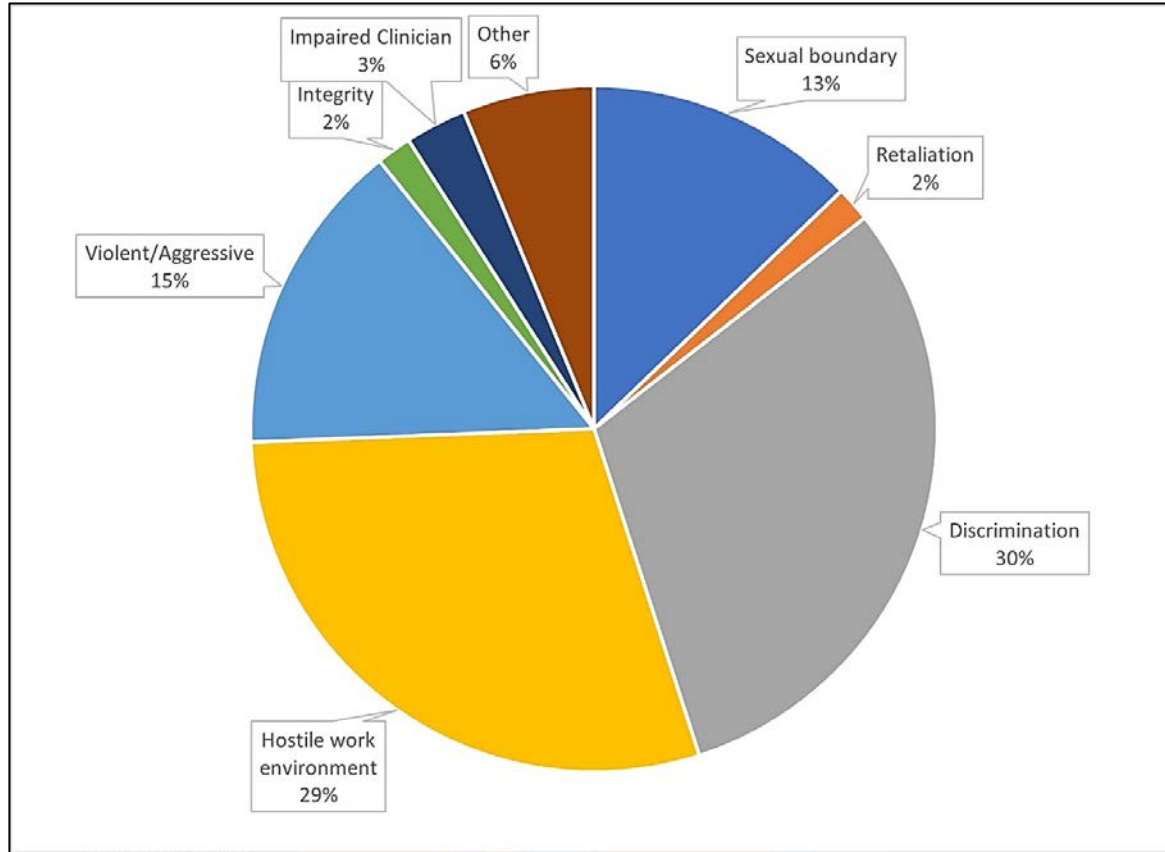
Leadership Huddle

Goals: Share information, determine next steps, ensure consistency of process

Stakeholders:

- Human Resources

- Chief Medical Officer

- Department Chair

- Legal and Medical Affairs

- Medical Education

- Risk Management

- Nursing

- Compliance

Leadership Huddle

Information sharing

Determine if an investigation is needed

Implement any temporary sanctions

Asess wellbeing concerns

Baldwin C et al. Huddles for Unprofessional Behaviors in the Healthcare Setting That May Require Immediate Investigation, Inquiry, or Intervention . Under Review.

How COPHE Addresses Current Challenges

Coordination
One clear group who reviews
Central repository of data

Transparency
Sharing of data

Consistency
Same process for all
Evidence based coding

Accountability
Escalation pathway
Connection to medical affairs and school

Responsive Action Strategies in Cases With Faculty Respondents

- Providing the same grievance process for student, staff, and faculty respondents

- Publishing a framework for responsive action decision-making

- Setting decision-makers up for success

- Double-checking responsive action decisions and implementation

Providing the Same Grievance Process for Student, Staff, and Faculty Respondents

Providing the Same Grievance Process for Student, Staff, and Faculty Respondents

Poll Question

Describe your institution's procedures for responding to sexual misconduct by faculty and staff.

a. Uniform grievance procedures for faculty and staff

b. Grievance procedures for faculty and staff respondents differ in some ways, but are generally equivalent in terms of length and procedural fairness protections offered

c. Procedures for faculty respondents are more time-consuming, more involved, or have other features that may hinder the institution's ability to hold faculty respondents accountable

Providing the Same Grievance Process for Student, Staff, and Faculty Respondents

Prior to 2020, Minnesota's procedures in sexual misconduct cases with faculty respondents made it more difficult to discipline faculty members for sexual misconduct than it was to discipline students or staff.

- A "clear and convincing evidence" standard was applied to faculty respondents, whereas a "preponderance of the evidence" standard was applied to staff and students.

- Faculty discipline required a longer and more involved process, with consultation with tenured faculty in the unit and a hearing before an all-faculty panel.

Providing the Same Grievance Process for Student, Staff, and Faculty Respondents

- Minnesota added a new section in its Faculty Tenure policy stating that reports of faculty sexual misconduct will be addressed under the same procedures applicable to all other University members.

- Resulted in a consistent grievance procedures for all respondents:

  - the "preponderance of the evidence" standard;

  - a decision-making panel consisting of five panelists, including at least one panel member of the same job classification (faculty, staff, or student) as each party; and

  - a standard sanctioning process for all employees with built in checks to ensure consistency across employee classes, colleges, and campuses.

Publishing a Framework for Decision-Making on Responsive Action

Publishing a Framework for Decision-Making on Responsive Action

Poll Question

Select the answer that best describes the sanctioning guidelines used by your institution:

a. Sanctioning guidelines for students and employees

b. Sanctioning guidelines for students only

c. Sanctioning guidelines for employees only

d. No sanctioning guidelines

Framework for Responsive Action Decision-Making

Responsive Action Framework

Purposes of responsive action

- Hold the respondent accountable in a way that communicates the seriousness of their conduct.

- Prevent further misconduct from occurring.

- Address the harm caused to the complainant and community.

- Foster an organizational climate where community members perceive that discrimination and sexual misconduct is not tolerated, that reports of this conduct will be taken seriously, and that retaliation for reporting this conduct is unlikely to occur.

Principles for responsive action

- Effectiveness, proportionality & consistency

Framework for
Responsive Action Decision-Making

Types of responsive action:

- **Disciplinary measures** - designed to hold respondents accountable and prevent recurrence of the misconduct.

- **Rehabilitative measures** - designed to prevent recurrence of the misconduct through learning, skill building, expectation-setting, and behavior change.

- **Restorative measures** - designed to address the harm to the impacted person or community by the misconduct

- **Monitoring measures** - designed to ensure that the implemented disciplinary, rehabilitative and restorative measures are effective in meeting our goals.

Crookston campus

Duluth campus

Morris campus

Twin Cities campus
Minneapolis · St. Paul

Rochester campus

Framework for Responsive Action Decision-Making

Provides examples of the types of responsive action (termination, serious or moderate disciplinary action, or responsive action other than disciplinary action) that may be effective and proportionate where an employee is found to have engaged in different types of discrimination or sexual misconduct.

Setting Decision-Makers Up For Success

Setting Decision-Makers Up For Success

To ensure decision-makers (Deans) have maximum information:

- they receive written recommendations and information about past reports/offenses from the Title IX office.

- if there is a hearing, they receive written recommendations from the hearing panel, and an opportunity to meet with the panelists.

- they meet with representatives from the Title IX office, Human Resources, and the Office of the General Counsel to discuss the findings, the recommendations, and prior responsive action in similar matters.

Double-Checking Responsive Action Decisions and Implementation

Double-Checking Responsive Action Decisions and Implementation
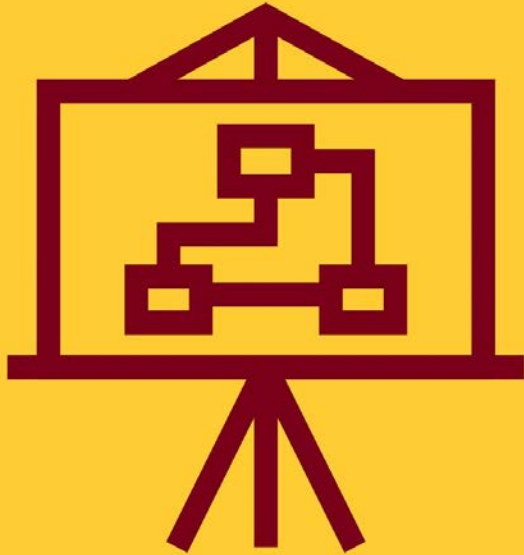
- Required approval by the Provost where the proposed responsive action differs meaningfully from the Title IX office's (or hearing panel's) recommendation.

- The Title IX office submits quarterly accountability reports to the University Auditor on any decided-upon responsive actions that have not been implemented.

Strategies for Meeting Current Challenges

Coordination

Invest in resources that set sanctioning decision-makers up for success and in structures that provide checks on responsive action decisions and implementation.

Transparency

Publish a framework for decision-making on responsive action.

Consistency

Provide the same grievance process for students, staff, and faculty respondents. Identify principles and strategies to guide sanctioning decision-making.

Accountability

All of these strategies contribute to accountability measures that are effective, proportionate, and consistent.

**OFFICE FOR
EQUITY AND DIVERSITY**

UNIVERSITY OF MINNESOTA

Driven to Discover®

Crookston   Duluth   Morris   Rochester   Twin Cities

Greetings from Stop Sexual Assault in Schools!

Let us introduce ourselves and why we are so excited to be here

- Heidi Goldstein
- Karen Truszkowski

Why are you here – at this conference??

- New/Learning the role
- Need bigger impact in the role

Why this specific session??

- Let's hear from the room

A Few Housekeeping Items

- Interactive: be prepared to speak and share your thoughts and experiences

- Kindness: our highest value in this work and in the room

- Clarity: seek first to understand, then be understood

- Distractions: if you must take a call or text, please do so outside the room

- This presentation – and other SSAIS materials – available to you via the ATIXA **Event Lobby**

POP QUIZ: The Biggest Challenge for TIX Staff?

- Depends on *your* orientation:
  - » Age, sex, gender and sexual orientation biases are real - no one is immune

- Depends on the stakeholders and their influence:
  - » SPED, Student, Parent, Faculty, Administration, Alumni, Community Activists

- Depends on your institution:
  - » Culture & values around sexual violence/harm affects reporting & occurrences

- Depends on your state of residence:
  - » State level non-discrimination protected classes range from 18 (CA) to zero (GA)

- Depends on the day of the week!
  - » Moms for Liberty et al in the courts to stay new US Dept of Ed Title IX Regulations

Heidi's Biggest Challenge: Student Safety & Access

- The Fire Department as a metaphor for TIX work:
  - » Despite environmental mitigation & education, fires happen
  - » Ongoing investment required for resources, processes, collaboration and training to prevent and fight fires
  - » Fire department infrastructure is a given for public safety – defend or burn

- Title IX Staff are the stewards of student safety and access to educational resources – ***your advocacy and support are key.***

- Institutional investment in the TIX function is often insufficient, but…

- …Infrastructure in the form of colleague collaborators is robust

- To protect students the best defense is broad collaboration

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Karen's Biggest Challenge: Awareness

- Disbelief that bad behavior occurs with children of all ages

- School staff not knowing that they are mandatory reporters

- Disbelief when children report abuse

- Poor training on topics including gender, gender expression and LGBTQ discrimination

Berkeley Unified School District – A Title IX Nightmare

- At Berkeley (CA) Unified School District a recent $13.5 million-dollar civil suit settlement was made with nine plaintiffs who were harassed and assaulted by a chemistry teacher over a 20-year period.

https://www.ktvu.com/video/1525916

Another Big Challenge: Title IX Implementation is in Chaos

- Revised Title IX regulations went into effect August 1, 2024
- AND: Coordinated efforts to stay or delay implementation in many states (see the maps on the following slides) has led to massive confusion, disinformation & mis-implementation at public institutions
- SO: TIX Office must function as the point of expertise for their institutions to navigate a continually shifting landscape
- Is your institution on the list?
  - » August 28, 2024 **list of Higher Education Institutions**
  - » August 28, 2024 **list of K-12 schools**

Title IX Regulations Implementation at 8/28/24
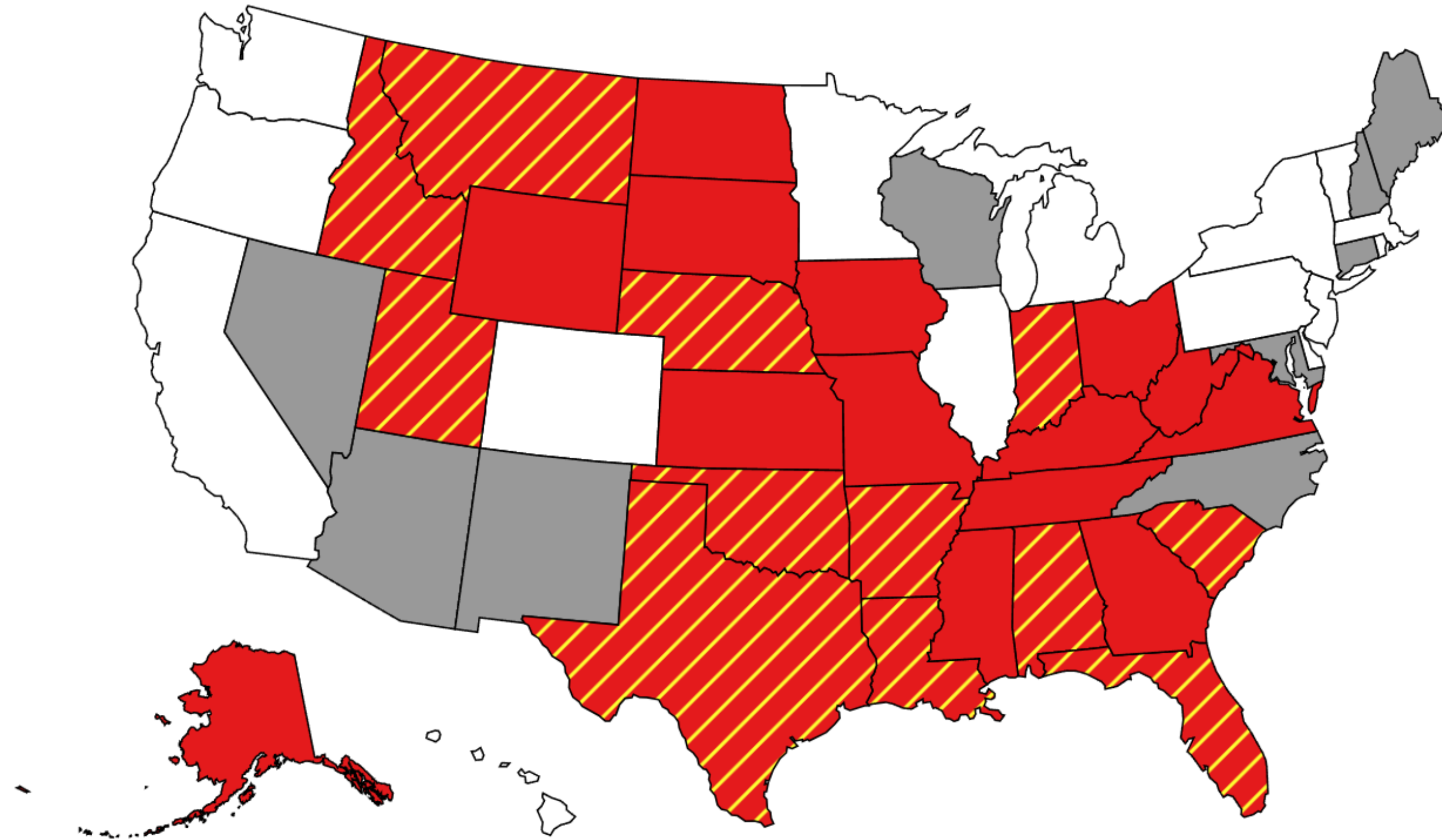
Legend:
- No Action (gray)
- Amicus Brief (white)
- Complete Injunction (red)
- Do Not Implement (DNI) Directive (yellow)
- Current or Pending Litigation (blue)
- Litigation & DNI (blue/yellow striped)
- Injunction and DNI (red/yellow striped)

As if TIX Staff Didn't Already Have Enough to Do

- TIX office often has other responsibilities beyond incident triage, responding to and overseeing the processes to resolve incidents of sexual violence:
  - » "Compliance" reporting
  - » Professional Development "coverage" training
  - » Legal resource coordination for investigations or related legal actions
  - » Documentation and communications pertaining to incident resolution
- **How crazy is this:** The TIX office is the point of interface to claimants, respondents, and their supporters for a quasi-criminal adjudication process in which they participate only as witnesses

The Case for TIX as a Force for Institutional Culture

• Because it has the most direct, deepest understanding of the issues that comprise sexual violence incidents at the institution, the TIX Office is uniquely positioned to influence policy and practice across typically siloed functions to shape institutional culture — in ways legislation cannot — to foster prevention and reduce the prevalence of incidents of sexual violence

• At all levels in K-12 and Higher Ed:

  » Board, Administration, and Functional Leadership

  » Staff and Union

  » Students

But First, Consider Your Institution

- Student age and maturity matters: minor children v. age of consent adults (just barely) suggest different and differentiated approaches and collaborative partners in K-12 and Higher Ed environments

- Institutional size matters:
  - » Smaller pond ➡ bigger impact
  - » Strategic approach and resource application in a larger environment

- Institutional emphasis matters:
  - » Public K-12 focus on proficiency metrics, graduation rate and FAPE
  - » Higher Ed focus influenced by non-regulated elements: reputational, revenue, influence, alumni, "side" business agendas

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K-12 School Culture Dimensions

- Demographics: distributions by sex, race, ethnicity, gender spectrum identification for Students, for Staff, for Administration

- District history: fiscal stability; OCR or other civil lawsuits, reputation

- District philosophy: FAPE, discipline and student support continuums

- Special Education (SPED) demographics and penetration

- School organization: ES/MS/HS discrete or combined grades (K-8)

- School size: mega MS/HS structure v. multiple smaller schools

- School Board: demographic, professional and political affiliations

- Local/regional culture also dictates norms for tolerance, discipline and remediation of sexual violence

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Natural Allies to TIX in the K-12 Environment

- "It" Teachers – the ones to whom students naturally gravitate

- School staff responsible for climate and student culture: Deans, Student Affairs, intervention/mental health counselors

- Athletic Directors (sometimes…getting traction with new NCAA representation requirements)

- Student leaders (MS/HS)

- Institutional Ombudsman

- Local service providers for mental health, after school and other non-core academic programs

- Local non-profits with focus on youth well-being: Girls Inc., Talented Tenth, Youth in Government, YMCA

Legal Considerations – K-12 Environment

- Private schools are unaware of their obligations under Title IX…or in denial of their obligations

- Selective protection of certain protected classes over others

- Athlete entitlement embedded in the culture

- Failure to use good old common sense in dealing with incidents of sexual violence and discrimination

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Higher Ed School Culture Dimensions

- Demographics: distributions by sex, race, ethnicity, gender spectrum identification, **wealth** for Students, for Staff, for Administration

- History: fiscal stability; OCR or other civil lawsuits, reputation

- Philosophy: quality reputation for academics, athletics, industry leadership and political influence

- Investment Priorities: academics, research, athletics, student life

- Alumni Dynamics: influence on school policies, programs and investments

- Governance: demographic, professional and political affiliations

- Local/regional culture also dictates norms for tolerance, discipline and remediation of sexual violence

Natural Allies to TIX in the Higher Ed Environment

- Student Affairs Staff
    - » Residential & Greek Life
    - » Recreational sports, activities boards, new student orientation
    - » Affinity groups & clubs
- Athletics Staff: NCAA requirements have their attention
- Campus Leaders: administration, faculty, staff, student activists
- Student Government committees: programs, conduct, judiciary
- Student Services: transportation, health center
- Faculty/Staff Governance: advisory boards, faculty senate
- Local non-profits with focus on young adult well-being

Legal Considerations – Higher Ed Environment

- Athlete entitlement embedded in the culture

- Refusal to provide accommodations -- during and after investigations

- Lengthy timeframes for investigations

- Failure to use good old common sense in dealing with incidents of sexual violence and discrimination

- Egos get in the way of process, progress, and justice

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Selected Resources for Improved Climate/Culture

- State Level - State or County Department of Education Technical Assistance Offices
- Federal level - Office for Civil Rights under the US Department of Education: **https://www.ed.gov/about/ed-offices/ocr**
- Culture Programs:
  - » GreenDot (Campus culture/climate): **https://alteristic.org/green-dot/**
  - » Coaching Boys to Men (Athletics) **https://coachescorner.org/**
  - » That's Not Cool (bystander intervention) **https://www.futureswithoutviolence.org/children-youth-teens/thats-not-cool/**
  - » GET: The Project (Gender Equity Training): **https://therepproject.org/education/get/**
  - » Students Against Sexual Harassment (SASH) Club (student self-education): **https://sashclub.org/** project of Stop Sexual Assault in Schools

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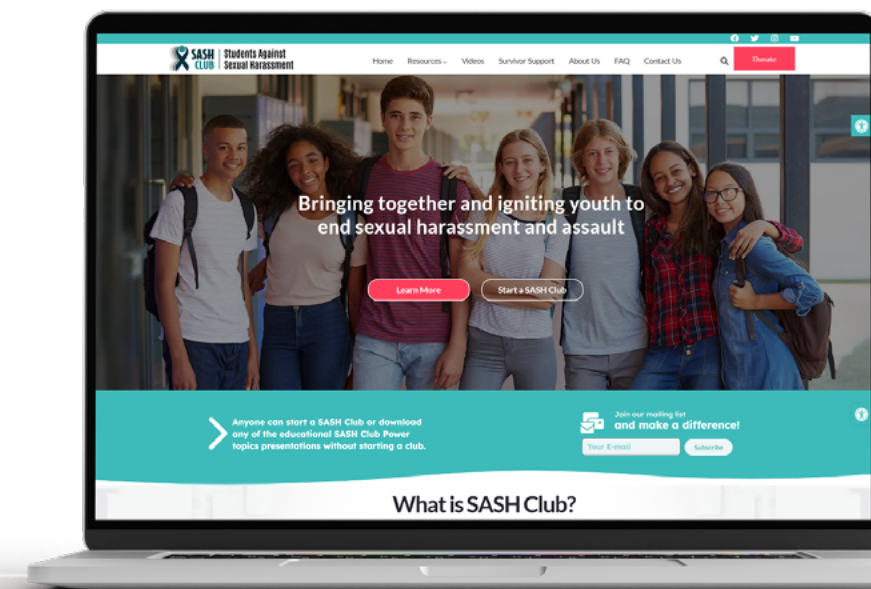
Selected Resources for Improved Climate/Culture

- National Not for Profit Agencies:
  - » WestEd: **https://www.wested.org/**
  - » Alliance for Girls: **https://www.alliance4girls.org/**
  - » Stop Sexual Assault in Schools: **https://stopsexualassaultinschools.org/**

Call to Action – Culture Change Starts with YOU

Get Informed: understand your institution's status with respect to implementation of the new Title IX rules; keep your stakeholders informed
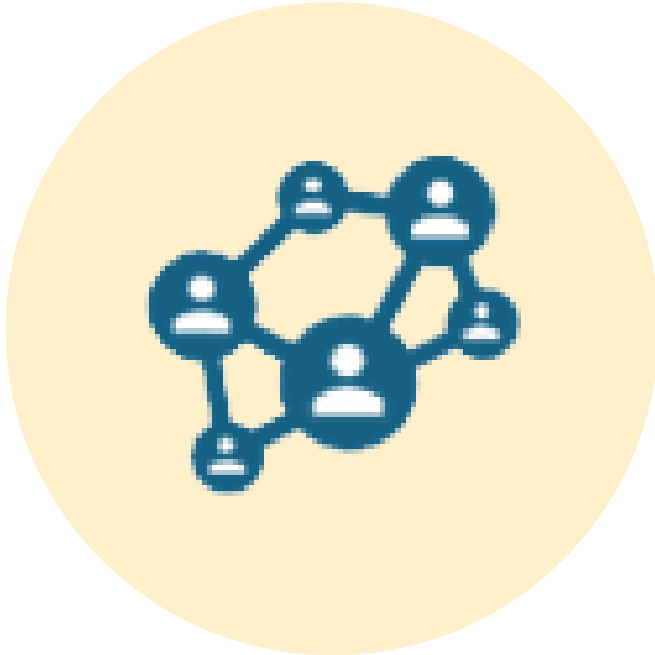
Reach Out: Identify five colleagues/ functions with whom you/your office can collaborate to cross-leverage resources that will keep students safe, protect their access to educational resources and build institutional engagement

Make a Plan: Draw up a 100-day plan with a few key objectives for each collaborative initiative and strategies to achieve them. Meet regularly with your collaborators to refine ideas
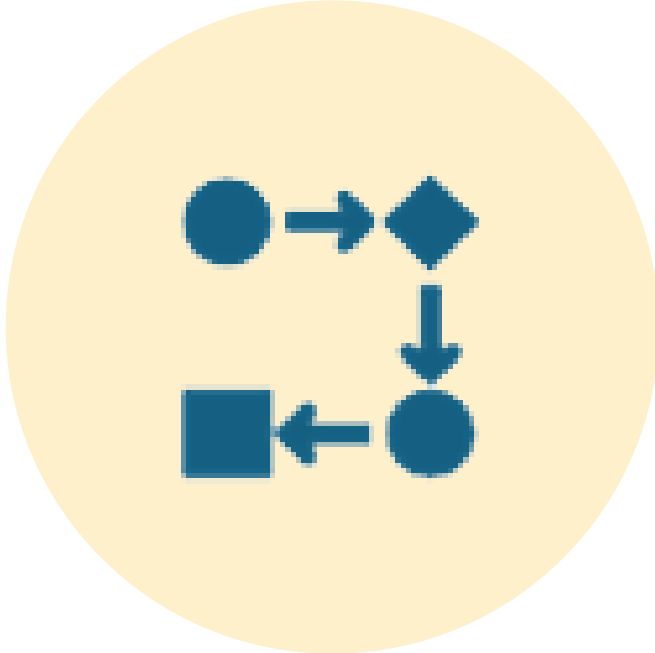
Execute: Work your plan. Make it a priority to do something every day to make progress

Thank You!! Want to Talk More?

- Contact Heidi Goldstein, Board Chair, Stop Sexual Assault in Schools at: hbgoldstein94707@gmail.com

- Contact Karen Truszkowski, Board Vice-Chair, Stop Sexual Assault in Schools at: karen@temperancelegalgroup.com | 844.534.2560 (24 hours)

- Contact Esther Warkov, Executive Director or Joel Levin, Program Director, Stop Sexual Assault in Schools at:

  » esther@stopsexualassaultinschools.org

  » joel@stopsexualassaultinschools.org

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HOW THE CHANGES IN TITLE IX GUIDANCE SHAPE HIGHER EDUCATION INSTITUTIONS' LIABILITY IN FEDERAL COURT CASES, 2000-2022: A CONTENT ANALYSIS

Dr. Allyson Miller

ATIXA Conference 2024

Key Terms

Complainant: An individual who makes the complaint or allegation of sexual misconduct

Dear Colleague Letter (DCL): A document released by a federal agency providing educational institutions guidance on sexual misconduct cases

Institutional Liability: "Alleged 'official policy' of intentional gender discrimination" and/or "actual knowledge that a student has faced sexual misconduct in the institution's program and activities and deliberate indifference with respect to addressing the sexual misconduct that the institution knows is occurring" (Richard, 2018, p. 1)

Power: "Access to the ability to control or significantly influence other people's lives"; may be formal or informal (Linder, 2018, p. 7)

Respondent: An individual who responds to an allegation of sexual misconduct

Sexual Violence: Any form of unwanted sexual activity in which an individual did not give consent including rape, sexual assault, sexual harassment and/or sexual exploitation ("Preventing Sexual Violence", 2019)

Title IX of the Education Amendments of 1972 (Title IX): A federal law which prohibits individual(s) from "being excluded, denied the benefits, or be subjected to discrimination based on sex in any educational program or activity that receives federal funding" (Title IX, 1972)

U.S. Department of Education, Office for Civil Rights (OCR): Office within the Department of Education that is responsible for enforcing civil rights within educational institutions in the United States ("Office for Civil Rights", 2019)

Problem Statement

The guidance provided by the Department of Education continues to change with little clarity on the duty higher education institutions have on addressing sexual misconduct.

Thus, resulting in colleges and universities needing to defend their actions in federal court against their students. This is both time-intensive and financially burdensome.

Purpose of the Study

The purpose of this qualitative content analysis was to examine how Title IX policies have changed from the Bush, Obama, and Trump administrations and the impact this change has had on institutional liability.

This study also evaluated how the change in federal guidelines have shaped institutional policies and procedures and influenced federal court decisions.

Research Questions

1. How have the Title IX policy changes under the Bush, Obama, and Trump U.S. presidential administrations impacted higher education institutional liability lawsuits?

2. What specific Title IX requirements within the Bush, Obama, and Trump U.S. presidential administrations are higher education institutions being held liable for violating?

3. How effective is the Title IX guidance under the Bush, Obama, and Trump U.S. presidential administrations at reducing institutional liability?

Significance of the Study

- Allow higher education leaders and practitioners to argue for Title IX guidance that is
  - Fair and equitable to students
  - Provide security for institutions
  - Adopt policies and procedures that aid in Title IX compliance

- Add to the literature review of sexual harassment lawsuits

Conceptual Framework

POWER-CONSCIOUS FRAMEWORK

| Engage in critical consciousness and self-awareness | Consider history and context | Change behaviors based on reflection and awareness | Name and call attention to dominant group members' investment in and benefit from systems of domination | Interrogate the role of power in individual interactions, policy development, and practice | Work in solidarity to eradicate oppression |

Power is Omnipresent — Power and identity are inextricably linked — Identity is socially constructed

FOUNDATIONS AND ASSUMPTIONS

Literature Review: Shift in Title IX

Grove City College v. Bell (1984) *

"no substantive difference" on how institution receives federal funding

Alexander v. Yale (1980)

sexual harassment is a form of sex discrimination

Gebser v. Lago Vista Independent School District (1998)*

students can sue for monetary damages

Davis v. Monroe County Board of Education (1999)*

Peer to peer sexual harassment

* Indicates Supreme Court Case

Literature Review

Bush Administration (R) (2001-2009)	Obama Administration (D) (2009-2017)	Trump Administration (R) (2017-2021)
• Sexual harassment: "unwelcome conduct in a sexual nature" (p. 2) • Quid pro quo and hostile environment • Same treatment to all students • Grievance procedure is "prompt and equitable" (p. 4) • Responsible employee	• Sexual violence: rape, sexual assault, sexual battery, and sexual coercion • Off-campus jurisdiction • Preponderance of the evidence standard • 60-day investigation timeline • Title IX Coordinator • Interim action	• Stalking and domestic violence • "Severe, pervasive, and objectively offensive" (p. 31) • Preponderance of the evidence or clear and convincing standard • On-campus only • Presumed not responsible • Live hearing

Literature Review

- The Role of a Title IX Coordinator
  - Increase in Litigation
  - Working in a Culture of Fear

- Failure to Comply with Title IX
  - Support from Administration Matters

- Policies and Procedures of Title IX
  - Lack of Clear Guidance by The Department of Education

Methodology

- Qualitative
  - Seeks to understand a social or human problem (Creswell, 1998)
  - Using non-numerical data such as text, language, observations, and other forms of subjective data to provide meaning (McLeod, 2019)

- Content Analysis
  - Allows researcher to analyze data to understand meaning (Krippendorff, 2013)
  - Data is presented in words and themes (Bengtsson, 2016)
  - Manifest analysis: describes what is said (Bengtsson, 2016)
  - Latent analysis: interprets the written text for additional meaning (Bengtsson, 2016)

Sample

- Purposeful Sampling
- Criteria:
  - Federal lawsuit against post-secondary institution
  - Institution is based in the United States
  - Lawsuit might be filed by a student for Title IX claim
  - Lawsuit might be filed between 2000-2022
  - Lawsuit must have at least one successful claim
- 21 lawsuits

Data Collection

- Court Records
  - Westlaw
  - Title IX for All
  - Library of Congress

- Saturation

- Google Sheet
  - Organization of cases
  - Specific details of case
  - Final outcome of each case

(803)
Number of lawsuits filed against a higher education institution between 2000-2022

(466)
Number of lawsuits filed for a Title IX violation

(241)
Number of lawsuits with at least one successful claim

(21)
Number of lawsuits with one successful claim and did not result in a settlement
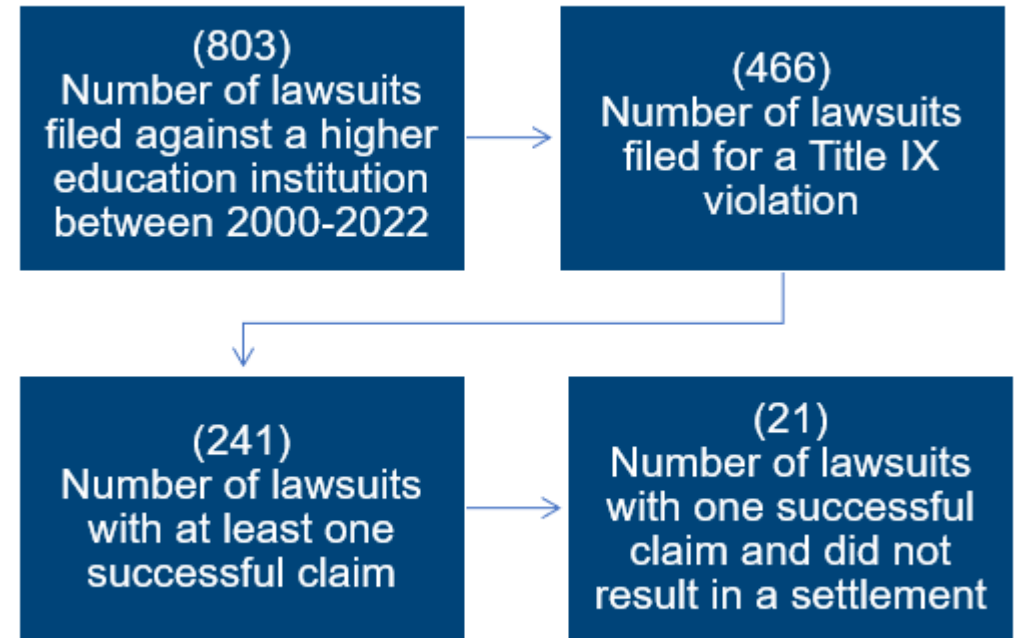
Data Analysis

- 4 Steps (Bengtsson, 2016):

  - Decontextualization
    - Deductive reasoning design with pre-determined codes (9)
      - Court decisions, court standards, positive/negative outcome, courts have ruled violation, stage in power-conscious framework, etc.
    - Open coding for patterns

  - Recontextualization
    - Ensure all important information was included in the coding
      - Re-reading cases several times
    - Color coding (yellow for critical, pink for non-critical)

  - Categorization
    - Manifest: subcategories → overarching categories
    - Latent: subtheme → overarching themes

  - Compilation
    - Analyze data from "neutral perspective"

Trustworthiness and Dependability

- Credibility (Merriam & Tisdell, 2016)
  - Role of the researcher
  - Multiple points of data collection

- Dependability (Merriam & Tisdell, 2016)
  - Audit trail for data collection and data analysis

- Transferability (Merriam & Tisdell, 2016)
  - Using exact quotes

Limitations

1. Limited information
   - mutual agreements prior to trial and/or case settlements outside of court records

2. Purposive sampling and methodology
   - Could decrease the generalizability of the findings

Delimitations

1. Institutions of Higher Education

   ➥ No primary or secondary institutions

2. Case involving sexual harassment

   ➥ No other areas of protected rights

3. Only Bush, Obama, and Trump administrations

   ➥ No other presidential administrations

Findings

Finding 1) Increase in Title IX Lawsuits

- ➥ Theme 1: External Pressure

- ➥ Theme 2: Federal Funding Threats from the U.S. Department of Education

Finding 2) Violation of Presidential Guidance does not mean Violation of Title IX

Finding 3) Previous Court Cases

- ➥ Theme 1: Yusuf framework is a baseline for Title IX claims

- ➥ Theme 2: Title VII rulings can apply to Title IX

Finding 4) Guidance with More Legal Protocol can Reduce Title IX Liability

Finding 1: Increase in Title IX Lawsuits

Administration:	Prior administrations (1972-2001)	Bush (R) administration (2001-2009)	Obama (D) administration (2009-2017)	Trump (R) administration (2017-2022)
Number of Title IX Lawsuits:	11	10	357	460

Theme 1: External Pressure

➡ "**external pressure alone** is not enough to state a claim that the university acted with bias in this particular case. Rather, it provides a backdrop that, when combined with other circumstantial evidence of bias in John's specific proceeding, gives rise to a plausible claim" -*Doe v. University of Denver et al.* (2017)

➡ "it is plausible that a college that had just recently resolved two separate, years-long investigations by the Department of Education would be eager to avoid a third" –*Doe v. Hobart and Williams Smith Colleges* (2020)

➡ "The panel concluded that Doe's allegations of **external pressures** impacting how the university handled sexual misconduct complaints, an internal pattern and practice of bias in the University of California and at UCLA in particular, and specific instances of bias in Doe's particular disciplinary case, when combined, raised a plausible inference of discrimination on the basis of sex sufficient to withstand dismissal" –*Doe v. The Regents of the University of California* (2019)

Theme 2: Federal Funding Threats from the U.S. Department of Education

- "in the years leading up to Doe's investigation, DCL guidance urged schools **receiving federal funding**, such as Dordt, that they needed to take immediate action to eliminate sexual harassment, prevent its recurrence, and address its effects where student-on-student harassment creates a hostile environment. **Dordt could lose funding it if was found in violation of Title IX**"-*Doe v. Dordt University et al.* (2019)

- "It is reasonable to infer that the DCL, **the threat of losing federal funding** if sexual misconduct was not vigorously investigated…would place tangible pressure on the University. It is plausible that such pressure would affect how the University treated respondents in disciplinary proceedings on the basis of sex" –*Doe v. The Regents of the University of California* (2019)

- "the specter of another federal investigation of potential Title IX violations could motivate the University to discriminate against male athletes accused of sexual misconduct to demonstrate ongoing compliance with Title IX" - *Does v. Regents of the University of Minnesota* (2018)

Finding 2: Violation of Presidential Guidance does not mean Violation of Title IX

- "the 'misconduct' at issue in this instant case, namely the University's alleged failure to comply with Title IX regulations promulgated by the United States Department of Education, does not confer a private right of action" –*Doe et al. v. University of the South* (2009)

- All federal judges in the cases analyzed referred to a previous court case instead of the guidance released by the Department of Education.

Finding 3: Previous Court Cases

- Theme 1: Yusuf Framework is a baseline for Title IX Claims
- Theme 2: Title VII rulings can apply to Title IX

Theme 1: Yusuf framework is a baseline for Title IX Claims

- *Yusuf v. Vassar College* (1994): Erroneous Outcome and/or Selective Enforcement

- "Title IX claims based on alleged sex discrimination in disciplinary proceedings are analyzed, among others, under the **erroneous-outcome and selective-enforcement** theories" –*Doe v. Dordt University et al.* (2009)

- "The Fifth Circuit has adopted the Second Circuit's framework, recognizing two categories of claims attacking a university disciplinary proceedings on grounds of gender bias. The first category is an '**erroneous outcome**' claim. The second category is a '**selective enforcement**' claim." –*Doe v. Texas Christian University* (2022)

- Doe failed to "plead a claim under Title IX based on either **erroneous outcome or selective enforcement**." –*Doe v. Prairie View A&M University et al.* (2022)

Theme 2: Title VII rulings can apply to Title IX

- Title VII of the Civil Rights Act of 1964: prohibits employment discrimination

- "This provision, which is enforceable through an implied private right of action, was enacted to supplement the Civil Rights Act of 1964's ban on racial discrimination in the workplace and in universities. As a result, 'courts have **interpreted Title IX by looking to…caselaw interpreting Title VII**." *–Doe v. Columbia University* (2020)

- "The *Columbia University* court explained that employment discrimination cases brought pursuant to **Title VII of the Civil Rights Acts of 1964 provide the proper framework for analyzing Title IX claims**." *–Doe v. Hobart and William Smith Colleges* (2020)

- "…this type of claim is to be analogized to the better-explored **Title VII claim**." *– Doe v. Rensselaer Polytechnic Institute* (2020)

Finding 4: Guidance with more legal protocol can reduce Title IX liability

- President Donald Trump's (R) Title IX regulations aid the most in reducing institutional liability

- "the exclusion of 'compelling exculpatory evidence' from the decisionmakers is further evidence of an erroneous decision" –*Doe v. Texas Christian University* (2022)

- "the Court finds that a school's conscious and voluntary choice to afford a plaintiff, over his objection, a lesser standard of due process protections when that school has in place a process which affords greater protections, qualifies as an adverse action" –*Doe v. Rensselaer Polytechnic Institute* (2020)

Discussion and Recommendations

Recommendations for Public Policy

1. The Department of Education should incorporate legal proceedings and legal standards into their guidance.

2. The Department of Education should form a committee that is inclusive of former or retired federal judges when creating new guidance.

3. The Department of Education should remove Title IX guidance and only provide updates from federal court cases.

4. Educational institutions should add legal protections to existing policies.

Recommendations for Institutional Practice

1. Educational institutions should provide legal training for Title IX staff.

2. Educational institutions should create and implement a policy review committee made up of several stakeholders and licensed attorneys.

3. Senior leadership at educational institutions should understand the importance of Title IX compliance and liability.

4. Educational institutions should create a task force to aid in tracking Title IX lawsuits.

Recommendations for Future Research

1. Study the financial impact Title IX has on education institutions.

2. Study the lack of Title IX compliance and how to motivate senior leadership to want to comply.

3. Discover the long-term impact Title IX lawsuits have on an institution (i.e. admission rates, retention of students, relationships with donors and alumni)

4. Analyze the intersection of federal court decisions and the political background of the individual federal judge making a decision.

THANK YOU!

Questions?

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NATIONAL ACADEMIES Sciences Engineering Medicine

Innovative Practices to Stop "Passing the Harasser" in Higher Education

Presentation for the 13th Annual ATIXA Conference

Frazier Benya, PhD, *National Academies of Sciences, Engineering, and Medicine*
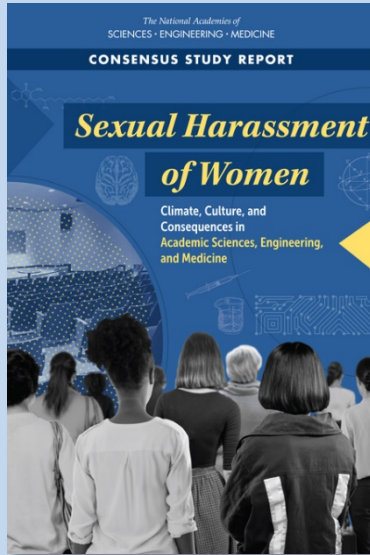
Quinn Williams, JD, *Universities of Wisconsin System*

Melissa Sortman, MA, *Michigan State University*

WEDNESDAY, OCTOBER 30TH, 2024

Featured Session Overview

Context

Foundation and Deep Dives

About the Action Collaborative on Preventing Sexual Harassment in Higher Education

Created in April 2019, the Action Collaborative grew out of a desire among higher education institutions to collaborate and learn from each other as they worked to act on the findings and recommendations from the National Academies' Sexual Harassment of Women report.

The National Academies of
SCIENCES · ENGINEERING · MEDICINE

CONSENSUS STUDY REPORT

Sexual Harassment of Women

Climate, Culture, and Consequences in **Academic Sciences, Engineering, and Medicine**

Key Findings from Consensus Report on Sexual Harassment of Women

1. There is extensive sexual harassment

2. Gender harassment is the most common form of sexual harassment

3. Sexual harassment undermines research integrity, reduces talent pool, and harms targets and bystanders

4. Legal compliance is necessary but not sufficient to reduce harassment

5. Changing climate and culture can prevent and effectively address sexual harassment

Recognizing All Types Of Sexual Harassment

SEXUAL COERCION

using professional threats or rewards to get sexual favors

UNWANTED SEXUAL ATTENTION

sexual assault

rape

unwanted groping or stroking

PUBLIC CONSCIOUSNESS

GENDER HARASSMENT

relentless pressure for sex or dates

nude images posted at work

unwanted sexual discussions

sexually humiliating acts

sexual insults, gender slurs, and vulgar name calling
e.g. "whore," "pu**y," "slut," "bitch"

offensive sexual teasing or remarks about bodies

sexist insults
e.g. women don't belong in science

sabotage of women's equipment

obscene gestures

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Key Findings from Consensus Report on Sexual Harassment of Women

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3. Sexual harassment undermines research integrity, reduces talent pool, and harms targets and bystanders

4. Legal compliance is necessary but not sufficient to reduce harassment

5. Changing climate and culture can prevent and effectively address sexual harassment

Predictors of Sexual Harassment

Sexual harassment is most likely to take place in environments that are:

- Male-dominated in number, leaders, and culture

- Organizational tolerance of sexual harassment

  o Reporting is perceived as risky

  o Reports not taken seriously

  o Offenders escape sanction

Organizational climate is, by far, the greatest predictor of the occurrence of sexual harassment.

Key Recommendations for Higher Education Institutions

Make systemwide changes that address the systems, cultures, and climates that enable sexual harassment to perpetuate:

1. Addressing the most common form of sexual harassment: gender harassment

2. Create diverse, inclusive, and respectful environments

3. Diffuse the hierarchical and dependent relationship between trainees and faculty

4. Provide support for targets

5. Improve transparency and accountability

6. Strive for strong and diverse leadership

Goals of the Action Collaborative

1. Facilitate and inform action on preventing and addressing harassment;

2. Share and elevate evidence-based policies and strategies for reducing and preventing sexual harassment;

3. Advance research on sexual harassment prevention, and gather and apply research results across institutions;

4. Raise awareness about sexual harassment and its consequences, and motivate action to address and prevent it; and

5. Assess progress in higher education toward reducing and preventing sexual harassment in higher education.

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Public Resources from the Action Collaborative

Summit: Annual open forum for identifying, discussing, and elevating innovative and promising approaches – Presentation and Materials available online

Publications: Working Groups, composed of representatives from the Member Institutions, work together to gathering information on research and practices and produce publications that can inform and enable action.

Rubric: List of the areas of work that align with the findings and recommendations from the National Academies 2018 report on *Sexual Harassment of Women*

Repository of Work: Collection of the most significant, novel actions that each Action Collaborative institution has taken

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http://nationalacademies.org/sexual-harassment-collaborative

EXPLORING POLICIES TO PREVENT "PASSING THE HARASSER" IN HIGHER EDUCATION (2023)

This paper explores decision points around the development and implementation of policies to prevent the practice known as "passing the harasser."

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Materials Related to "Passing the Harasser"

Work by Member Organizations:

- Policies to Prevent "Passing the Harasser" in Higher Education: 2020 University of Washington, 2020 Universities of Wisconsin, 2020 University of California, Davis, 2021 Cornell University, 2021 The Ohio State University, 2022 Purdue University, 2024 Argonne National Laboratory, and 2024 Michigan State University

- Policies to take into consideration people's behavior during reappointment, promotion, awards, and/or tenure: 2020 Rutgers University and 2020 University of California, Berkeley

Publications from the Action Collaborative:
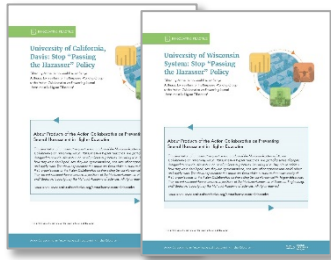
INNOVATIVE PRACTICES TO STOP PASSING THE HARASSER (2022)

Two innovative practices from the Universities of Wisconsin System and the University of California, Davis provide comprehensive descriptions of policies and practices for stopping what is called "passing the harasser." The publications detail how the policies work and what processes were used to develop and implement them, with the aim of enabling other organizations to adapt and apply it to their own environment.

Universities of Wisconsin System

University of California, Davis

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Collaborative Publications from the Action Collaborative

STRATEGIES FOR DEVELOPING, IMPLEMENTING, AND SUSTAINING SEXUAL HARASSMENT BYSTANDER INTERVENTION PROGRAMS FOR FACULTY, STAFF, AND GRADUATE STUDENTS (2023)

This paper explores different approaches to developing, implementing, and evaluating the efficacy of sexual harassment bystander intervention trainings for faculty, staff, and graduate students.

INNOVATIVE PRACTICES TO STOP PASSING THE HARASSER (2022)

Two innovative practices from the University of Wisconsin System and the University of California, Davis provide comprehensive descriptions of policies and practices for stopping what is called "passing the harasser." The publications detail how the policies work and what processes were used to develop and implement them, with the aim of enabling other organizations to adapt and apply it to their own environment.

Universities of Wisconsin System

University of California, Davis

EXPLORING SANCTIONS AND EARLY INTERVENTIONS FOR FACULTY SEXUAL HARASSMENT IN HIGHER EDUCATION (2022)

This paper lays out the challenges and current landscape for how higher education deals with harassment by faculty members and notes some ways in which academic administrators may intervene and hold tenured or tenure-track faculty accountable for harmful behaviors that are not deemed institutional or legal violations.

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Collaborative Publications from the Action Collaborative

APPROACHES TO THE EVALUATION OF SEXUAL HARASSMENT PREVENTION AND RESPONSE EFFORTS (2023)

This paper provides an introduction to methods and approaches for evaluating interventions designed to prevent and respond to sexual harassment in their institutions.

GUIDANCE FOR MEASURING SEXUAL HARASSMENT PREVALENCE USING CAMPUS CLIMATE SURVEYS (2021)

This paper provides guidance for measuring the prevalence of sexual harassment using campus climate surveys. Using decades of research on sexual harassment, it identifies key considerations for each step in the climate assessment process.

EVALUATING THE EFFECTIVENESS OF INTERVENTIONS TO PREVENT AND ADDRESS SEXUAL HARASSMENT: PROCEEDINGS OF A WORKSHOP (2021)

On April 20-21, 2021, the National Academies of Sciences, Engineering, and Medicine hosted the workshop Developing Evaluation Metrics for Sexual Harassment Prevention Efforts. The workshop explored approaches and strategies for evaluating and measuring the effectiveness of sexual harassment.

*This was conducted under the auspices of the Committee on Women in Science, Engineering, and Medicine, but involved several members of the Action Collaborative.

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Collaborative Publications from the Action Collaborative

PREVENTING SEXUAL HARASSMENT AND REDUCING HARM BY ADDRESSING ABUSES OF POWER IN HIGHER EDUCATION INSTITUTIONS (2023)

This paper examines the types of power differentials in academia, how abuses of power can take the form of sexual harassment, and strategies for preventing and remediating such abuses.

APPLYING PROCEDURAL JUSTICE TO SEXUAL HARASSMENT POLICIES, PROCESSES, AND PRACTICES (2022)

This paper explores how a procedural justice framework could help guide improvements and revisions to policies, processes, and practices within higher education institutions with the potential to mitigate the negative experiences and outcomes of those affected by sexual harassment.

PREVENTING AND ADDRESSING RETALIATION RESULTING FROM SEXUAL HARASSMENT IN ACADEMIA (2023)

This paper discusses the existing legal protections for retaliation directed at those who experience or report sexual harassment in higher education. It discusses the conditions that enable retaliation to occur, negative consequences of retaliation, and policies and practices that may help prevent retaliation.

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Action Collaborative on Preventing Sexual Harassment in Higher Education

Website:

nationalacademies.org/
sexual-harassment-
collaborative

Email:

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Director
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Exploring Policies to Prevent "Passing the Harasser" in Higher Education

Preventing Passing the Harasser Paper

This paper:

- **describes the landscape** of policies and practices in higher education to prevent passing the harasser, including federal- and state-level legislation;

- **highlights known decision points** that arise in the processes for developing and implementing policies and procedures that augment background checks and other information-gathering strategies during the hiring process; and

- **identifies areas of research needed** to improve all processes used for preventing passing the harasser.

ISSUE PAPER

Exploring Policies
to Prevent
"Passing the Harasser"
in Higher Education

Tricia Serio, Ashley Blamey, Laura Rugless, Vickie R. Sides, Melissa Soetman, Ilina Vatti, and Quinn Williams, *Authors*

Kaitlin Spear, *Editor*

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This individually-authored paper was conducted under the auspices of the Action Collaborative on Preventing Sexual Harassment in Higher Education, an activity of the National Academies of Sciences, Engineering, and Medicine. The Action Collaborative brings together academic and research institutions and key stakeholders to work toward targeted, collective action on addressing and preventing sexual harassment across all disciplines and among all people in higher education. The authors are solely responsible for the content of this paper, which does not necessarily represent the views of the authors' organizations or of the National Academies of Sciences, Engineering, and Medicine.

Learn more: http://www.nationalacademies.org/sexualharassmentcollaborative

Definition

"Passing the Harasser"

The movement from one institution ("former institution") to another ("hiring institution") of faculty members who have been found responsible for sexual harassment or are still under investigation for allegations of sexual harassment, without disclosure of this information to the hiring institution.

Contributing Factors

- **Background checks cover criminal behavior**

- **Reference checks don't typically include questions about sexual harassment**

- **Neither Title IX nor Title VII cover it**

  – Neither includes a requirement to obtain or disclose information on findings

The Federal- and State-Level Landscape

- **State**
  - Washington State HB 2327, which requires hiring institutions to:
    - *ask applicants about former misconduct and ongoing investigations;*
    - *contact applicants' former higher education employers to ask about misconduct and ongoing investigations; and*
    - *keep personnel files with misconduct findings.*
  - California Senate Bill 791
  - Limits on non-disclosure and non-disparagement clauses
  - Civil liability exemptions

- **Federal**
  - Speak Out Act (2022)
  - National Labor Relations Board ruling on non-disparagement and confidentiality provisions

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Examples of Policies

Overview – Universities of Wisconsin System (UWS)

	UWS
Year Initiated	2018
Request or disclose information?	Request and Disclose
Which employees?	Full-time employees (faculty, academic staff, postdoctoral fellows, etc.)
Who is asked for information?	Both job candidates and their references; some institutions pose questions to all finalists for a position, other ask just the final candidate
At which point of the process?	Reference Check
What is covered?	Violations of sexual harassment policies, open investigations, and instances in which candidates left their previous position(s) while being actively investigated
Who requests the information?	Human Resources or Title IX staff member
What does disclosure of adverse information mean?	It does not does not constitute an automatic disqualifier; evidence-based hearings are held to review information.

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Overview – Michigan State University (MSU)

	MSU
Year Initiated	2024 (in progress)
Request or disclose information?	Request and disclosure
Which employees?	All regular full-time and part-time staff
Who is asked for information?	Both job candidates and their references
At which point of the process?	Application and reference check
What is covered?	Broad professional misconduct including theft, embezzlement, research integrity, discrimination or harassment under civil rights laws and policies, including protected identity harassment, sexual harassment, sexual misconduct, and retaliation.
Who requests the information?	TBD
What does disclosure of adverse information mean?	It does not constitute an automatic disqualifier; reviewed and adjudicated by the Vice Provost of Faculty Affairs on a case by case basis.

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Key Decision Points

Authority and Support

Implementation

Resulting Effects

Implementation

Decision Point	Potential Resolution	Example	Description
What to ask/What is covered? If requests cover only findings of misconduct and not allegations, open investigations, or investigations that could not be completed due to subject departure, then important information may be missed; however, there are concerns about withholding offers of employment simply for investigations that may or may not result in substantiated findings.	Ask for references for only substantiated findings, but ask applicants to self-attest that they are not currently being investigated.	University of California, Davis	UC Davis' policy involves asking references for "any history of substantiated academic misconduct found following a formal investigation," and asking candidates to "attest that they have not been disciplined in the last 5 years and are not currently the subject of an investigation."
	Ask for information more broadly, but adverse information would not constitute an automatic rejection.	University of Wisconsin System	The UW System's policy covers "violations, open investigations, and instances in which candidates left their previous position(s) while being actively investigated."
	Ask for a broad range of information.	The Ohio State University	Ohio State's authorization form covers "ANY misconduct (i.e., findings of misconduct, ongoing investigations into alleged misconduct, discipline as a result of misconduct) . . . [but not] information about alleged misconduct for which an investigation was conducted and no findings of misconduct were identified."

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Implementation

Decision Point	Potential Resolution	Example	Description
When to ask? Asking for disclosures at the application stage means investing a lot of work in applicants that will never be seriously considered, but waiting until the final stages means potentially having to start over if a final candidate has a history of misconduct.	Require consent at the application stage, but wait to request disclosures until the final reference check stage.	University of Illinois	"The U of I System will include in the application process a notice to potential applicants that inquiries regarding past Findings of Sexual Misconduct or Sexual Harassment will be made of them and prior employers… final candidates are required to authorize current and former employers to disclose Findings… as part of the hiring process."
	Tailor the timing of the request based on the supervisory responsibilities of the role and/or the financial cost of the timing.	Whatcom Community College	For positions with minimal or without supervisory responsibilities, Whatcom requests information about prior misconduct during the third interview. For positions with significant supervisory responsibilities and high-level positions (such as vice presidents) that may require flying applicants out to an interview, Whatcom requests information about misconduct at the beginning of the recruitment process.
Which employees does this apply to? Reviewing all employees of an IHE may be too large of a step to take.	Start with a smaller, more defined group than "all employees."	University of California, Davis	UC Davis' policy applies to "faculty with tenure/security of employment (i.e., a career-long guarantee of employment)."
		The Ohio State University	Ohio State's policy applies to "any faculty member being hired with tenure (Associate Professors and Professors)."
	Have the policy cover a large group of employees.	Purdue University	Purdue requires that "all job postings will indicate that disclosure regarding Findings of Misconduct will be required for external applicants and will be considered in the selection of the successful candidate . . . [except]: Individuals employed by outside staffing agencies; Individuals appointed to positions not on university payroll."

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Moving Forward

Considering Developing an Anti-Pass-the-Harasser Policy

1. **Contextual research**

2. **Institutional coordination**

3. **Establish buy-in**

4. **Identify examples**

Action Collaborative on Preventing Sexual Harassment in Higher Education

Website:

nationalacademies.org/ sexual-harassment- collaborative

Memorandum of Understanding between LAW ENFORCEMENT AGENCY & RECIPIENT[1]

Memoranda of Understanding (MOU) can help to define roles and responsibilities regarding shared challenges and work between an institution of higher education or school district and local/municipal/ county/state law enforcement. MOUs could also have multiple signatories when more than one law enforcement agency is involved, or could intersect multiple law enforcement entities, such as prosecutor or state's attorney offices, magistrates, etc.

Parties should approach the MOU process collaboratively, identifying areas of overlap in services, areas of potential collaboration, compliance needs, and challenges, such as the need for guardrails or clear role delineation. Often, recipients and municipalities will find significant overlap in functions related to Title IX matters, making the key questions ones of timing rather than practices. Thus, an effective MOU addresses both what and when (and sometimes how, if helpful). Close communication and an iterative drafting process will yield the most effective result. Below is an example of an MOU, but parties may add or delete sections depending on the individual needs of the parties and community.

I.   Purpose

This section offers an example of an MOU statement of purpose. Include the overarching priorities and motivations for signing the MOU. This section should be short and high-level, leaving the details for other MOU sections.

This Memorandum of Understanding (MOU) sets forth the respective roles and responsibilities of LAW ENFORCEMENT AGENCY/AGENCIES and RECIPIENT ("Parties") with respect to instances of Title IX-related behaviors and other forms of sexual misconduct that may have criminal implications. The purpose of this agreement is to enhance safety for students and employees and better serve the members of RECIPIENT'S community. This MOU describes the commitment of the Parties to collaborate in the prevention of and response to sex- and gender-based misconduct.[2]

II.   Parties

This section describes the parties to the MOU. Parties should customize this section to include accurate descriptions of the Parties, their structure, their services, their mission or purpose, and any other pertinent information.

AGENCY is a local law enforcement entity, providing safety and security support in the jurisdiction of [NAME OF CITY OR TOWN]. AGENCY has the authority to respond to reports and investigate allegations of crimes within its jurisdiction, including crimes of sexual violence. AGENCY also provides community education programs and implements community safety programs designed to increase community

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[1] This sample MOU does not constitute legal advice. Legal counsel should review any MOUs to ensure consistency with applicable laws.

[2] Sex- and gender-based misconduct refers to harassment, discrimination, or violence on the basis of sex, gender identity, gender expression, or sexual orientation. Additionally, sex- and gender-based misconduct includes, but is not limited to, sexual assault, dating and domestic violence, sexual exploitation, and stalking (also include sexual harassment if that behavior is criminalized in your jurisdiction).

accountability and reduce crime. AGENCY responds, 24 hours a day and seven days a week, to reports of crimes, crises, and health emergencies.

AGENCY TWO is a COUNTY law enforcement entity, providing safety and security support in the jurisdiction of [NAME OF COUNTY]. AGENCY TWO has the authority to respond to reports and investigate allegations of crimes within its jurisdiction, including crimes of sexual violence. AGENCY TWO also provides community education programs and implements community safety programs designed to increase community accountability and reduce crime. AGENCY TWO responds, 24 hours a day and seven days a week, to reports of crimes, crises, and health emergencies.]

RECIPIENT provides services to current students and employees and others experiencing the impacts of sex- and gender-based misconduct. RECIPIENT provides information on supportive measures, available reporting options on-campus and off-campus, and other resources on- and off-campus. Pursuant to Title IX, the RECIPIENT provides grievance procedures that permit both formal and informal resolution of reports under RECIPIENT policy. Additionally, RECIPIENT supports individuals who choose to make a report to law enforcement or Title IX or who are exploring informal resolution options. RECIPIENT'S Victim Advocate in the Health and Wellness Office serves as a confidential resource to support students and employees navigating their options and resources.

RECIPIENT is required by federal law (Title IX, the Clery Act) and state law (if applicable) to respond to notice of acts of sexual harassment, sexual assault, dating violence, domestic violence, and stalking that occur within Title IX-defined jurisdiction in certain prescribed ways, upon receiving a formal complaint. These laws contemplate two potential systems of response, criminal and campus/school-based, that can occur exclusive of each other, or with some level of concurrence or simultaneity. When they occur in tandem, coordination benefits all parties involved.

Thus, all signatories below recognize the value of coordination of response, collaborative training, and information sharing that empowers each to fulfill its duties and obligations under law.

III.   AGENCY [and AGENCY TWO] Commitments

The following section articulates examples of AGENCY commitments that RECIPIENT may rely upon after the execution of this MOU. The Parties should have a comprehensive discussion about priorities, needs, and resources prior to drafting this section.

AGENCY/AGENCIES will:

1) Notify the RECIPIENT promptly when it identifies RECIPIENT students or employees as the alleged victim or perpetrator of sex- or gender-based misconduct[3], regardless of where the act(s) allegedly

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[3] Defined as: [insert policy definition]

took place.[4] Prompt notification permits the Parties to coordinate their response and resources to minimize or prevent further victimization, unnecessary overlap, and inefficient allocation of resources. AGENCY will document all such notifications. Except in rare and exigent circumstances, AGENCY will not share personally identifiable information unless the alleged victim consents.

2) Render assistance to RECIPIENT'S response to an investigation of sex- and gender-based misconduct, consistent with applicable federal and state law and AGENCY policy.

3) Request assistance from RECIPIENT when responding to and investigating sex- and gender-based misconduct, as needed.

4) Participate in the Interdisciplinary Sexual Assault Response Team or collaborate with RECIPIENT to develop such a team if one does not exist at the time of this agreement. AGENCY agrees to be part of a system-wide review and discussion of [NAME OF CITY OR TOWN] response to sex- and gender-based misconduct.

5) Train any individual conducting a sex- and gender-based misconduct investigation with specialized, trauma-informed training, and periodic follow-up training. Training will focus on (a) responding to and investigating sex- and gender-based misconduct in an effective and bias-free manner; (b) forensic interviewing and evidence gathering techniques; (c) identifying individuals needing immediate assistance such as temporary protective orders or emergency medical/mental health treatment; and (d) working with diverse communities, including international students, undocumented students, individuals with disabilities, or individuals who are multilingual learners.

6) Deliver job-specific, trauma-informed training for Parties' dispatchers and first responders handling incidents of campus sex- and gender-based misconduct. Trauma-informed training should be germane to their roles in responding to incidents of campus sex- and gender-based misconduct, including recognizing and addressing bias; collecting, preserving, and analyzing evidence; question-asking and interviewing strategies; and facilitating suitable and appropriate referrals.

7) Deliver, with RECIPIENT staff, trauma-informed response training for campus police for RECIPIENT students, faculty, or staff. Training will include (a) reporting requirements, including anonymous and/or confidential reporting options available to victims of sex- and gender-based misconduct; (b) interviewing techniques and investigation timelines; (c) consent; (d) the role of drugs and alcohol in sex- and gender-based misconduct; (e) responding to reported misconduct of or by members of the LGBTQIA+ community; (f) cultural competency; (g) responding to reported misconduct of or by individuals with disabilities; and (h) responding to reported misconduct of or by international or undocumented individuals, as well as individuals who are multilingual learners. .

8) Collaborate with RECIPIENT to develop, deliver, and/or host sex- and gender-based misconduct prevention programs, including, but not limited to, bystander intervention training. Parties will hold, at minimum, annual meetings to review the effectiveness of their prevention education.

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[4] Although some people prefer to use the term "survivor" to describe an individual who has experienced sex- or gender-based misconduct, the term "victim" is widely used in the law enforcement context. This document uses the term "victim" with respect for those who have been subjected to sex- or gender-based misconduct.

9) Provide data to support prevention goals and participate in all regularly scheduled meetings regarding data analysis, threat assessment, or other issues impacting resource allocation.

10) Collaborate with RECIPIENT to develop and assess the effectiveness of research-informed strategies to prevent sex- and gender-based misconduct, including strategies directed at the role that drugs and alcohol play in sex- and gender-based misconduct.

11) Participate in outreach to RECIPIENT community to promote positive relationships among law enforcement and students, faculty, staff, and other stakeholders. Outreach may include orientation programs about campus safety, distribution of resource materials about community safety resources, and information about seeking help for victims of sex- and gender-based misconduct. AGENCY agrees that all outreach will be accessible to students, employees, and parents/guardians with disabilities or who are multilingual learners.

12) Participate in listening sessions and meetings with RECIPIENT students and employees, victim advocates, or other stakeholders to discuss ways in which Parties can more effectively respond to and prevent crime, with special attention to sex- and gender-based misconduct.

13) Implement community policing programs and community outreach efforts with special attention to responsible corporate citizenship of businesses that sell and/or serve alcohol.

14) Facilitate new or existing programs, such as neighborhood watch programs, after-hours safety escort programs, blue light emergency notification systems, text hotlines, and electronic notification systems, to promote community safety.

15) Identify factors that contribute to or facilitate sex- or gender-based misconduct against persons and property on or near the RECIPIENT'S buildings or campus. The Parties agree to address vulnerability that may exist in RECIPIENT's buildings, on-campus, or adjacent to campus, such as inadequate lighting, poorly maintained surveillance or communications equipment, natural hazards, human-made hazards, or nuisance establishments. Nuisance establishments include businesses known to serve underage persons or over-serve other guests, as well as common sites of off-campus parties.

16) Collaborate with RECIPIENT to implement prevention programming about the role of social and electronic media in facilitating sex- and gender-based misconduct.

17) Support and assist RECIPIENT with seeking grants from the U.S. Department of Justice, other federal or state agencies, or other sources of grant funding that require evidence of partnership or collaboration with law enforcement.

IV.   RECIPIENT Commitments

The following section articulates examples of RECIPIENT commitments that AGENCY/AGENCIES *may rely upon after the execution of this MOU. The Parties should have a comprehensive discussion about priorities, needs, and resources prior to drafting this section.*

1) Render assistance to AGENCY'S/AGENCIES' response to and investigation of sex- and gender-based misconduct, consistent with applicable federal and state law and RECIPIENT policy.

2) Provide staff to provide testimony or provide witness statements, as needed, during AGENCY/AGENCIES investigations or resolution processes.

3) Request assistance from AGENCY/AGENCIES when responding to an investigation of sex- and gender-based misconduct, as needed.

4) Train AGENCY/AGENCIES staff on RECIPIENT sex- and gender-based misconduct policies and procedures and campus resources available to students, faculty, and staff of RECIPIENT.

5) Collaborate with AGENCY/AGENCIES to develop and implement sex- and gender-based misconduct prevention programs, including, but not limited to, bystander intervention training. Parties will hold, at minimum, annual meetings to review the effectiveness of their prevention education.

6) Collaborate with AGENCY/AGENCIES to develop and assess the effectiveness of research-informed strategies to prevent sex- and gender-based misconduct, including strategies directed at the role drugs and alcohol play in sex- and gender-based misconduct.

7) Identify factors that contribute to or facilitate sex- or gender-based misconduct against persons and property on or near the RECIPIENT'S buildings or campus. The Parties agree to address vulnerability that may exist in RECIPIENT's buildings, on-campus, or adjacent to campus, such as inadequate lighting, poorly maintained surveillance or communications equipment, natural hazards, human-made hazards, or nuisance establishments. Nuisance establishments include businesses known to serve underage persons or over-serve other guests, as well as common sites of off-campus parties.

8) Collaborate with AGENCY/AGENCIES to implement prevention programming about the role of social and electronic media in facilitating sex- and gender-based misconduct.

9) Invite AGENCY/AGENCIES to serve as a core member of the RECIPIENT'S Interpersonal Violence Response Team.

10) Where permissible under federal law, withhold a Clery Act timely warning or details within a timely warning so as not to jeopardize a law enforcement investigation.

V.   Communication and Coordination Considerations

The section includes other provisions governing communication and coordination, including matters of privacy and safety.

The Parties agree to:

1) Share information about reports that may pose a serious threat to the health or safety of the campus and near-campus communities. Information sharing shall support the RECIPIENT'S compliance with the federal Clery Act, which requires colleges and universities to report campus crime data, support victims of violence, and publish policies, procedures, and other information to improve campus safety.[5]

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[5] 20 U.S.C. § 1092(f).

- 5 -

2) Coordinate communication to promote collaborative operations and response to the extent permitted by law. This could include interoperability of, among other things, radio communications, recordkeeping systems, and access to time-sensitive information.

3) Provide each other with basic temporary workspace as needed in furtherance of this MOU.

4) Share relevant documentation and other information about sex- or gender-based misconduct cases in which the victim and/or alleged suspect are RECIPIENT students or employees, at an appropriate time and when permitted by law. Relevant documentation and other information include records the Parties create during an investigation. Information sharing should facilitate delivery of services and investigations; help guard against retaliation; and assess any additional threats. Parties also agree to develop timelines for information and report sharing. When the Parties share information, the Parties will respect the victim's interest in maintaining confidentiality of their personally identifying information. The Parties may only share information without the victim's consent with the appropriate parties in emergencies where the disclosure is necessary to protect the health or safety of the student or other individuals.[6]

5) Respond to sex- and gender-based misconduct in a manner that facilitates an effective law enforcement and RECIPIENT response, including best efforts to preserve evidence. The Parties agree to use the expertise and resources of any cooperating agencies to ensure timely and proper evidence collection, maintenance, and preservation. The Parties agree that AGENCY/AGENCIES will facilitate the proper administration of sexual assault forensic evidence (SAFE) and/or sexual assault nurse examiner (SANE) exams, as well as proper custody and control of all collected evidence. The Parties agree that AGENCY/AGENCIES will be responsible for transporting victims for medical services. SAFE/SANE exams will be available to victims regardless of whether they seek to file a criminal report or make a report or complaint under RECIPIENT policy.

6) Coordinate their victim support responsibilities and practices from the time of a report through resolution, as applicable. The Parties agree that any law enforcement officer or other responder will not make statements or act in any manner that may discourage the victim from pursuing criminal charges and/or making a report or complaint or seeking any remedies from RECIPIENT. Responders from AGENCY/AGENCIES and RECIPIENT will receive trauma-informed training that teaches responders to encourage reporting and empower victims to make their own choices.

7) Refraining from requiring a victim who decides not to participate in an AGENCY/AGENCIES or RECIPIENT investigation to sign a waiver form that precludes future responsive action. Parties should provide victims information about reopening their case at their request at a later time.

8) Develop printed materials containing information on available services from AGENCY/AGENCIES and RECIPIENT to provide victims at the time of the report. Parties should include information on confidential reporting, too. The printed materials must be accessible to individuals with disabilities and limited English proficiency.

9) Engage in ongoing cross-training about the policies, procedures, and resources of both Parties. In partnership with other community resources, AGENCY/AGENCIES will deliver regular trauma-

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[6] See 34 C.F.R. §99.36(a).

informed training on sex- and gender-based misconduct for campus partners. RECIPIENT will provide regular training on federal and state requirements regarding sex- and gender-based misconduct prevention and response, including but not limited to, the Clery Act, Title IX, Title IV, and the Family Educational Rights and Privacy Act (FERPA).

10) Develop policies and procedures for investigations in which both Parties have jurisdiction. Policies and procedure will clarify roles and responsibilities, depending on location and type of incident.

11) Parties will hold, at minimum, annual meetings to review the effectiveness of their response policies, procedures, and efforts.

VI.   General Provisions

This section is an example of provisions that other sections may not capture, including provisions describing the administrative execution of the MOU. If this section becomes unduly long, it may make sense to thematically group the provisions in this section and create other sections this example MOU does not illustrate.

1) Each Party agrees to act in good faith to observe the terms of this MOU; however, nothing in this MOU requires any unlawful or unauthorized act by any Party.

2) No provision of this MOU shall form the basis of a cause of action at law or equity by any Party against any other Party, nor shall any provision of this MOU form the basis of a cause of action at law or equity by any third party.

3) This MOU is effective upon signature by each Party.

4) Either Party may terminate this MOU with 30 days written notice. The Parties may, by mutual agreement, terminate this MOU immediately or amend it in writing.

5) Nothing in this MOU shall make the Parties legal partners, principal and agent, or joint employers. The relationship of the Parties is akin to independent contractors, and neither of the Parties shall have the power or authority to bind or create liability for any other party by its negligent or intentional acts or omissions.

6) The Parties shall not unlawfully discriminate based on race, color, national origin, ancestry, sex, pregnancy, religion, age, physical or mental disability, marital status, veteran/military status, sexual orientation, gender identity, gender expression, political affiliation, order of protection status, survivor of domestic or sexual violence status, citizenship status, genetic information, and/or other protected characteristics.

_____   _____

LAW ENFORCEMENT AGENCY Representative   Date

_____   _____

[AGENCY TWO] Representative   Date

_____   _____

RECIPIENT Representative   Date

Title IX: Navigating the Evolving Landscape of Higher Education Leadership

Paul Apicella, JD

Kiara F. Allison, PhD

MONTCLAIR
STATE UNIVERSITY

Widener
TITLE IX AND EQUAL
OPPORTUNITY OFFICE

About the Presenters

Paul Apicella

- Director of Institutional Compliance and Title IX Coordinator at Montclair State University

- 10+ years as an attorney, civil rights investigator, higher education consultant, and Title IX Administrator

Kiara F. Allison

- Title IX Coordinator and Equal Opportunity Officer

- Over a decade as a higher education professional

- 8+ years as a Title IX Administrator

Presentation Overview and Outcomes

- Set the stage- Why is leadership in the Title IX space unique?
- Discuss 3 elements of executive leadership
- Scenarios

- Identify key executive leadership skills
- Identify strategies to foster institutional support and advocate for appropriate resources
- Engage in dialogue across experience level

Since 1972: Title IX Milestones

- **1972: Enactment : Title IX Signed into Law:** Prohibits sex-based discrimination in federally funded education programs.

- **1992: Franklin v. Gwinnett County Public Schools: Monetary Damages:** Allows plaintiffs to seek monetary damages in private Title IX lawsuits.

- **1997: First Sexual Harassment Guidance:** First guidance on sexual harassment, clarifying that sexual harassment is a form of sex discrimination prohibited by Title IX.

- **2001: Revised Guidance: Sexual Harassment**: Clarifies schools' responsibilities to address sexual harassment.

- **2011: Dear Colleague Letter :Sexual Violence**: Emphasizes schools' obligations to address sexual violence.

- **2020: New Regulations: Changes in Handling Cases**: Alters procedures for handling sexual misconduct cases.

- **2021: Biden Administration Review**

Since 1972: Title IX Evolution

2011 Dear Colleague letter/Other duties as assigned Title IX Professionals

Post-2020 Regulations/Professionalization

Where are we?

- Increased technicality, decreased understanding
- Be an artist.... and a scientist
- Changing seas and political footballs
- Do the right thing... and keep a nice file
- If you can't be sure, be thorough
- Just do it – perfectly... or else
- The trouble with "caring"
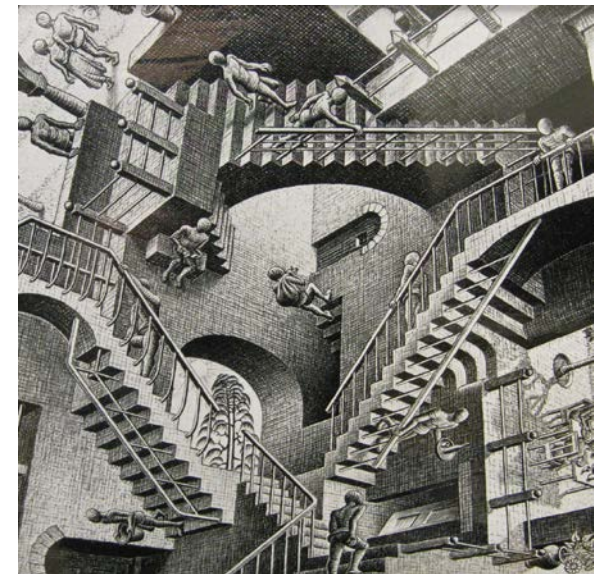
Leadership Challenges

What leadership challenge(s) do you face most frequently?

- Lack of understanding from senior leadership

- Varied organizational structures

- Poorly defined expectations

A Path forward

Competencies, skills, and dispositions of Title IX Leaders

3 Core Competencies of Effective Title IX Leaders

- Understanding Institutional Culture

- Executive Communication

- Expert AND Leader
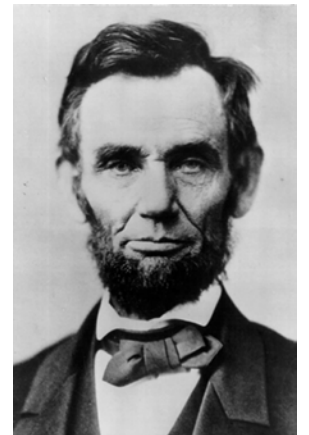
Understanding Institutional Culture

Be Observant

Know Your Stuff

Build Organizational Fluency

Know Your Place

Know Your History

Know How to Fight

Executive Communication

Know Your Customer

Speak the Language

Prepare to Audible

No "Whining"

Money Isn't Everything

Be Patient

Expert and Leader

Negative expertise

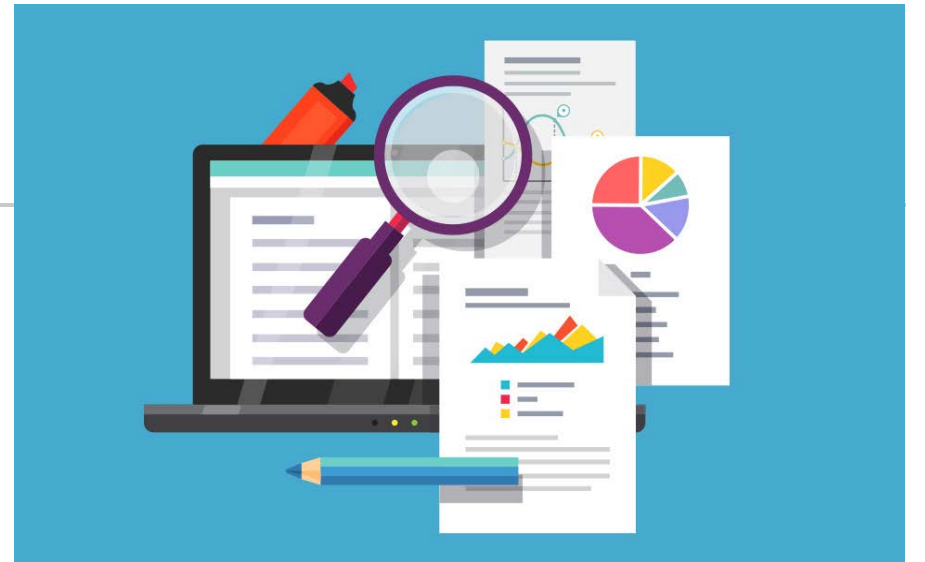Strategic Planning

Control your time

Leadership Challenges

Of the 3 core competencies outlined, which was the hardest to develop (seasoned professionals) or which competency has proved to be the largest learning curve (junior professionals)?

Case Studies and Discussion

Scenario 1 – Audience Participation/Q&A

You are the Equal Opportunity and Title IX Coordinator at Shmedium University, a private institution. You have a dual report to the University's VP of Student Affairs and VP of Business and Administration.

Your "staff" consists of you, one administrative support-person, and one investigator. You are sometimes authorized to engage external consultants or investigators, but only begrudgingly and with case-by-case approval from above. You track reports, complaints, and investigations in an excel spreadsheet, which makes precise data collection difficult, but it is clear to you and your staff that you are far too busy to sustain things over the medium or long term.

Feeling burnt out, stressed, and afraid that your staff are already looking for other jobs, you decide to approach your leadership to advocate for more resources. How will you go about this? What will you prioritize? How will you inform your requests? How will you present your requests? What factors will you want/need to consider?

Scenario 2 – Audience Participation/Q&A

You work at a small-medium sized university and were recently reorganized to report to someone directly on the President's Cabinet. Title IX is a new area to all senior leadership, including your new supervisor. There was a sexual assault that was reported on campus that required a timely warning notification, which reasonably and expectedly caused a range of emotions within the university community. While this is not a new experience for you or the other administrators involved in issuing the warning, several leaders are frantic to "prevent the backlash from happening again".

How do you quickly gain the trust of senior leaders in the wake of this incident? How do you manage the knowledge gaps that exist around the regulatory requirements? What are the long-term strategies for maintaining trust and buy-in from senior leaders?

Questions/Comments

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Kfallison@widener.edu

Alisha Carter Harris, M.S.

Senior Consultant, TNG and ATIXA

Elexandria Reese, M.S.Ed, SHRM-CP

Title IX & EEO Investigator, Auburn University

Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

"2024 Title IX Regulations"

2024 Title IX Regulations

- Issued **April 19, 2024**, by the Dept. of Education Office for Civil Rights ("OCR")

- Became effective and enforceable **August 1, 2024**

- Applies to incidents occurring **on or after August 1, 2024,** regardless of when the incident is reported

  - Opponents of the 2024 Title IX Regulations sought, and were granted, **injunctions** to delay or halt implementation of the Regulations

- Addresses discrimination **on the basis of sex*** in education programs and activities and prohibits retaliation *(including employees' workplace)*

  - *sex includes **sex stereotypes, sex characteristics, pregnancy or related conditions*, sexual orientation,** and **gender identity**

Enforcement Guidance on Harassment in the Workplace

"Title VII"

Enforcement Guidance on Harassment in the Workplace

- Issued **April 29, 2024**, by the Equal Employment Opportunity Commission ("EEOC")

- EEOC enforces laws that make discrimination illegal in the workplace

- This Guidance supersedes all previously issued guidance and is EEOC's position on important legal issues regarding harassment in the workplace under EEOC-enforced laws

- Addresses how harassment based on **race, color, religion, sex*, national origin, age, disability,** or **genetic information** is defined and the analysis for determining whether employer liability is established

  - "Sex" includes pregnancy, childbirth, and related medical conditions, sexual orientation, and gender identity

- Prohibits retaliation

Accessible at: https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace.

Honorary Mention – PWFA

- On **April 19, 2024,** the EEOC released its final rule to implement the **Pregnant Workers Fairness Act** ("PWFA")

- PWFA requires employers to provide reasonable accommodations to a qualified employee's or applicant's known limitations related to, affected by, or arising out of **pregnancy, childbirth,** or **related medical conditions,** unless the accommodation would cause an undue hardship on the operation of the employer's business

- PWFA also overlaps with the 2024 Title IX Regulations

Overlapping Legal Landscapes

EEOC Guidance: Grievance Process

- Requires an employer to show it exercised **reasonable care** both to **prevent** and **correct** harassment
    - Requires employers to adopt an anti-harassment policy
- Upon receiving notice of potentially harassing conduct, take "reasonable corrective action" to prevent the conduct from continuing
- Conduct a "prompt," "adequate," and "effective" grievance process
- Investigations should be conducted by an "impartial party" and seek information about the conduct from all parties involved
- Alleged harasser should **not** have supervisory authority over the investigator or direct/indirect control over the investigation

EEOC Guidance: Grievance Process

- Credibility assessments should be made by the investigator when there are conflicting versions of relevant events

- Investigator should be well trained on interviewing skills and evaluating credibility

- Inform the Parties of its determination and any corrective action(s) to be taken

- Corrective action(s) must be "reasonably calculated to prevent further harassment"

- Retain records of all harassment complaints and investigations

Title IX Regulations Resolution Process

- Treat parties equitably

- Requires TIXCs, Investigators, Decision-Makers have **no** conflict of interest or bias
    - DMs may be the same person as the TIXC or Investigator

- Presume that Respondent is not responsible for sex discrimination

- Establish reasonably prompt timeframes for "major stages" of the process
    - E.g., Evaluation, Investigation, Determination, Appeal

- Ensure Investigators and Decision-makers are trained on the Recipient's regulatory obligations, how to serve impartially, and the meaning and application of the term "relevant"

Title IX Regulations Resolution Process

- Take reasonable steps to protect the privacy of the parties and witnesses
    - Cannot restrict ability of parties to:
        - Obtain and present evidence
        - Consult with family members, confidential resources, or Advisors
        - Otherwise prepare for or participate in the Resolution Process
- Require an objective evaluation of relevant (and not otherwise inadmissible) evidence
- Maintain all records associated with the resolution for a period of at least seven (7) years

Title IX Regulations: Two-Track Resolution Process

- Which Resolution Process applies depends on the identities of the parties
  - Section 106.45 provides a civil rights Resolution Process for resolving complaints of sex-based discrimination
  - Section 106.46 incorporates § 106.45 and adds some due process protections
    - Retains many, but not all, features of the formal process from the 2020 Regulations
- Two separate processes are permitted but **not** required
  - If using only one, it must be § 106.46

§ 106.45	§ 106.46
- Sex discrimination complaints that are **not** sex-based harassment - Sex-based harassment complaints that do **not** involve a post-secondary student	Sex-based harassment complaints involving a post-secondary **student** Complainant and/or Respondent

Title IX Regulations: Notice of Investigation

§ 106.45

- Does **not** need to be in writing

- **Must include**:
  - Recipient's Resolution Process, including Informal Resolution (if available)
  - Sufficient available information to permit parties to respond to the allegations, such as identities (who), allegations (what), date (when), location (where)
  - Statement that retaliation is prohibited
  - Statement that parties have opportunity to access relevant evidence or description of the evidence

§ 106.46

- Incorporates elements of NOIA from § 106.45, with alterations

- Notice must be in writing, with time for parties to prepare before any initial interview

- Right to an Advisor

- Parties will have an opportunity to present relevant evidence to a DM

- Presumption of non-responsibility

- Statement that parties will be able to access relevant evidence or an investigation report

- Any prohibition against false statements

§ 106.45 Investigations

§ 106.45
▪ **Adequate**, **reliable**, and **impartial**
▪ Gather evidence
▪ Permit parties to present fact witnesses and inculpatory and exculpatory evidence
▪ Recipient must review all evidence gathered through the investigation and determine relevance
▪ Provide parties opportunity to access relevant evidence or accurate description of such evidence
▪ Provide parties reasonable opportunity to respond to evidence
▪ Investigation report not required
▪ Take reasonable steps to prevent and address parties' unauthorized disclosure of information and evidence obtained through process

§ 106.46 Investigations

§ 106.46 (+ non-conflicting elements of § 106.45)
▪ Permit Advisors
▪ Provide written notice of all meetings or proceedings with time to prepare
▪ Provide parties with the same opportunities to have support persons present
▪ Provide equal opportunity to review relevant evidence or an investigation report
▪ Provide opportunity to respond to evidence or an investigation report   ▪ If using a hearing, must permit review of evidence prior to hearing
▪ May equitably permit expert witnesses

§ 106.45 and § 106.46: Decision-Making

§ 106.45

- Use **preponderance of the evidence** standard
  - Unless clear and convincing is used for all "comparable proceedings"
- Provide a process enabling DM to question parties and witnesses to assess credibility
  - DM may be the same person as the TIXC or Investigator

§ 106.46 (+ non-conflicting elements of § 106.45)

- Provide the Parties with an opportunity for proposing/asking relevant questions either via live hearing or individual meetings
- DM must make relevance determinations of all questions prior to a Party or witness answering
- A DM may place **less or no weight** on statements by a Party or witness who refuses to respond to relevant questions
- A DM may **not** draw an inference about whether sex-based harassment occurred **solely** on a Party or witness's refusal to respond to relevant questions

Exceeding the Floor of Compliance

Floor vs. Ceiling Compliance

- Both the 2024 Title IX Regulations and EEOC Guidance set a floor for compliance, but do not infuse many best practices into the resolution processes
    - However, the Title IX Regulations require an enhanced process for employees when a student is also party to a complaint
- Things to consider for grievance processes generally:
    - Create one policy and one procedure for all civil rights-based complaints
    - Require written documentation for all stages of the resolution process including an investigation report
    - Separate the Investigator and Decision-maker roles
    - Permit advisors
    - Use the **preponderance of the evidence** standard of proof

Investigator Best Practices

- Follow the institution's policy and ensure correct policy(ies) are used to investigate complaints

- Maintain adequate, written records
  - Obtain interviewee verification of transcripts/notes

- Understand the scope of the investigation and apply correct policy definitions

- Ensure transparent investigations
  - Do what you say you will
  - Provide Parties/advisors with a well-organized evidence file/draft report
  - Explain the grievance process/Parties' rights and allow questions

Investigator Best Practices

- Ensure NOIAs are adequate and correct

- Conduct an adequate and reliable investigation
    - Document inability to gather evidence and the reason(s) why
    - Document witnesses who did not participate in the investigation
    - Verify documentary evidence with others (such as screenshots of messages)
    - Gather relevant evidence from all sources, both internal and external

- Remain neutral, impartial, and unbiased

Investigator Training

Ensure the Investigator is well-trained on the following topics:

- Definitions of Prohibited Conduct

- Scope of education program or activity

- How to conduct a fair and adequate investigation and resolution process

- How to serve impartially, including by avoiding prejudgment of facts, conflicts of interest, and bias

- The meaning and application of the term relevant in relation to questions and evidence

- Types of evidence that are impermissible regardless of relevance

- Facilitating the Decision-making process, including questioning

- Determining relevance

- Assessing credibility

- Making a finding of fact

- Determining whether policy was violated

- Assigning sanctions (if applicable)

- How to write a determination rationale

Best Practices for Investigators Serving as Decision-Makers

- Permit an appeal*

- Ensure that the Title IX Coordinator and/or General Counsel reviews the Investigator's work product

- Investigators make non-binding recommended findings and final determinations that are reviewed by separate administrator (*i.e.,* Title IX Coordinator) for final review/implementation

    - Allow this individual to engage in additional fact finding, when necessary

- Where violations of policy are found, have a separate administrator determine sanctions

*Appeals are **required** under § 106.46.

Questions?

AGENDA

01 ABOUT ME

02 PREJUDICE

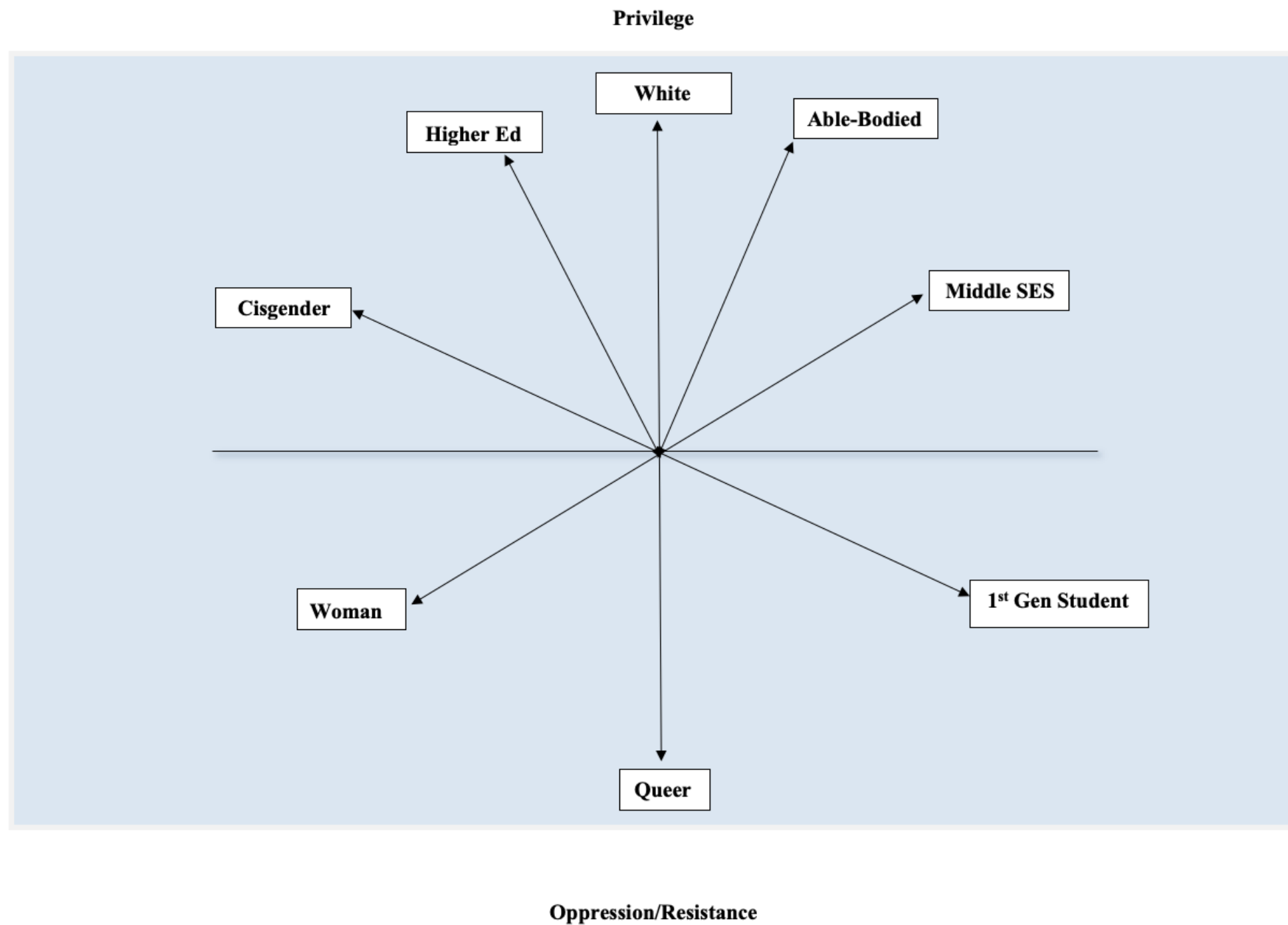**03** GENDER-BASED VIOLENCE

04 CULTURAL CONTRIBUTORS

05 PREVENTION & INTERVENTION

06 QUESTIONS

POSITIONALITY

Adapted from Worrell & Remer (2003) *Empowering Diverse Women*
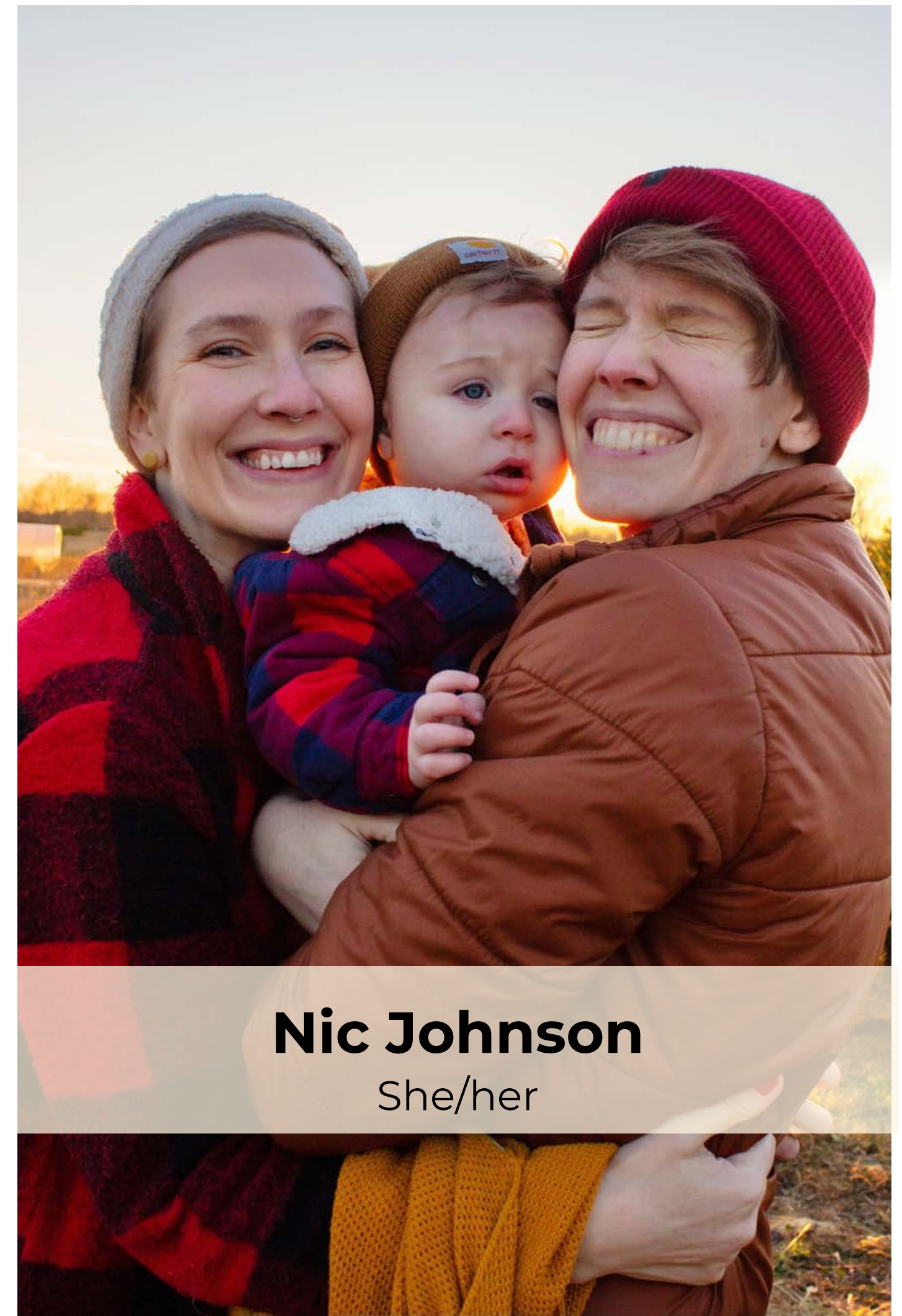
Nic Johnson
She/her

1

JOURNEY

01 **University Rape Prevention Programming**

Trained in and Implemented Men's & Women's Program (2007-2009)

Trained in Bringing in the Bystander (2012)

Created and Implemented Bystander Plus Prevention Program (2013 - present)

02 **Clinical Experience**

Therapy primarily with survivors of gender-based violence (2010-present)

College Counseling Centers

Community Mental Health

Veterans Healthcare Systems

Hospital Consultation Work

Licensed Psychologist (2020-present)

03 **Research Experience**

PhD in Counseling Psychology (2015)

Postdoctoral Clinical Researcher (2015-2016)

Faculty at Lehigh University (2016-present)

Faculty at UBC (beginning 2025)

THE RESISTANCE LAB

PREJUDICE [2]

A social emotional experience with respect to one's social identity as a group member, with an outgroup as a target

BLATANT & SUBTLE PREJUDICE[2]

BLATANT PREJUDICE

Hot, direct

Linked to greater negative emotions
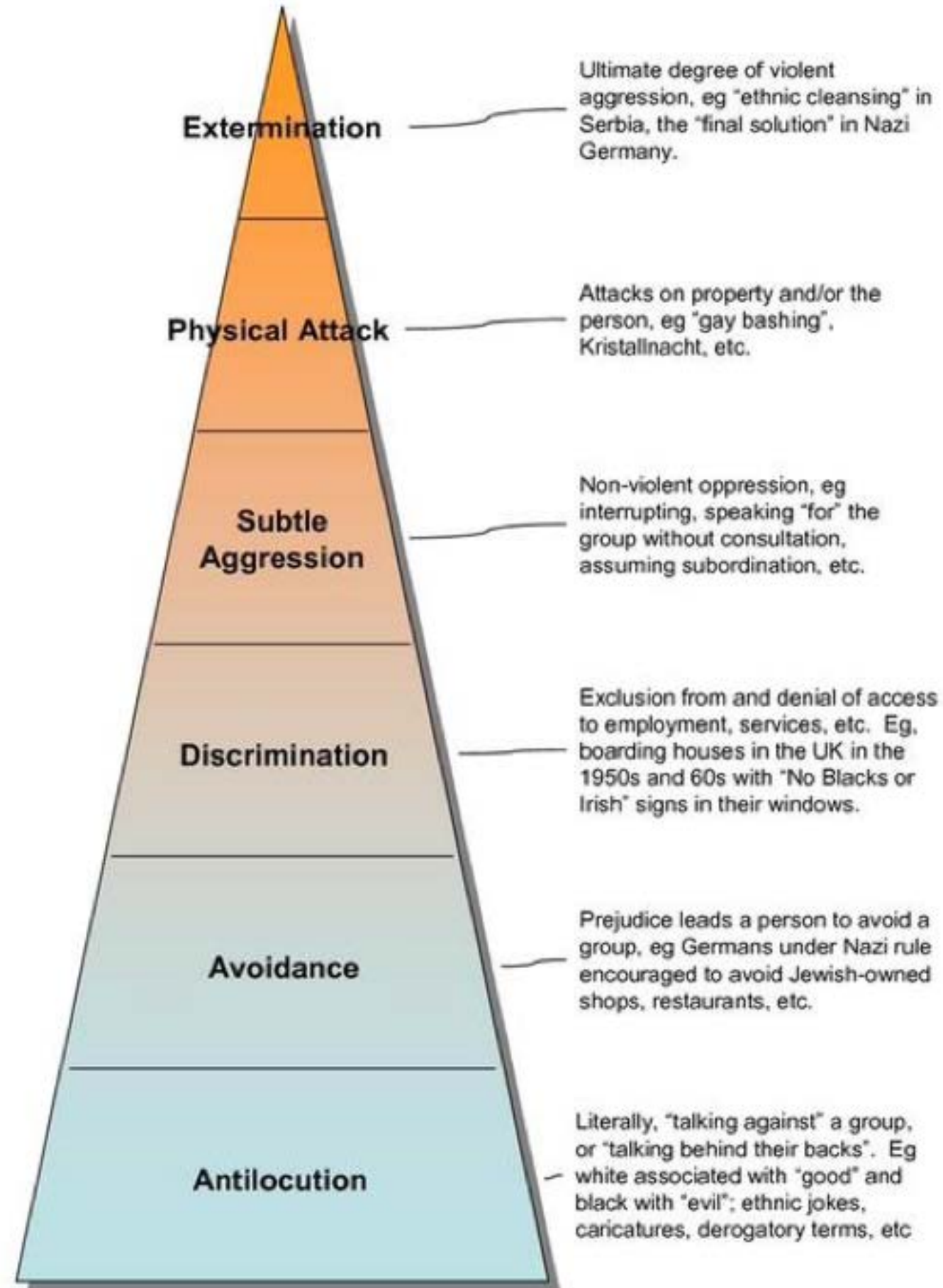 (e.g., outgroup hate)

SUBTLE PREJUDICE

Newer, cool, distant, indirect

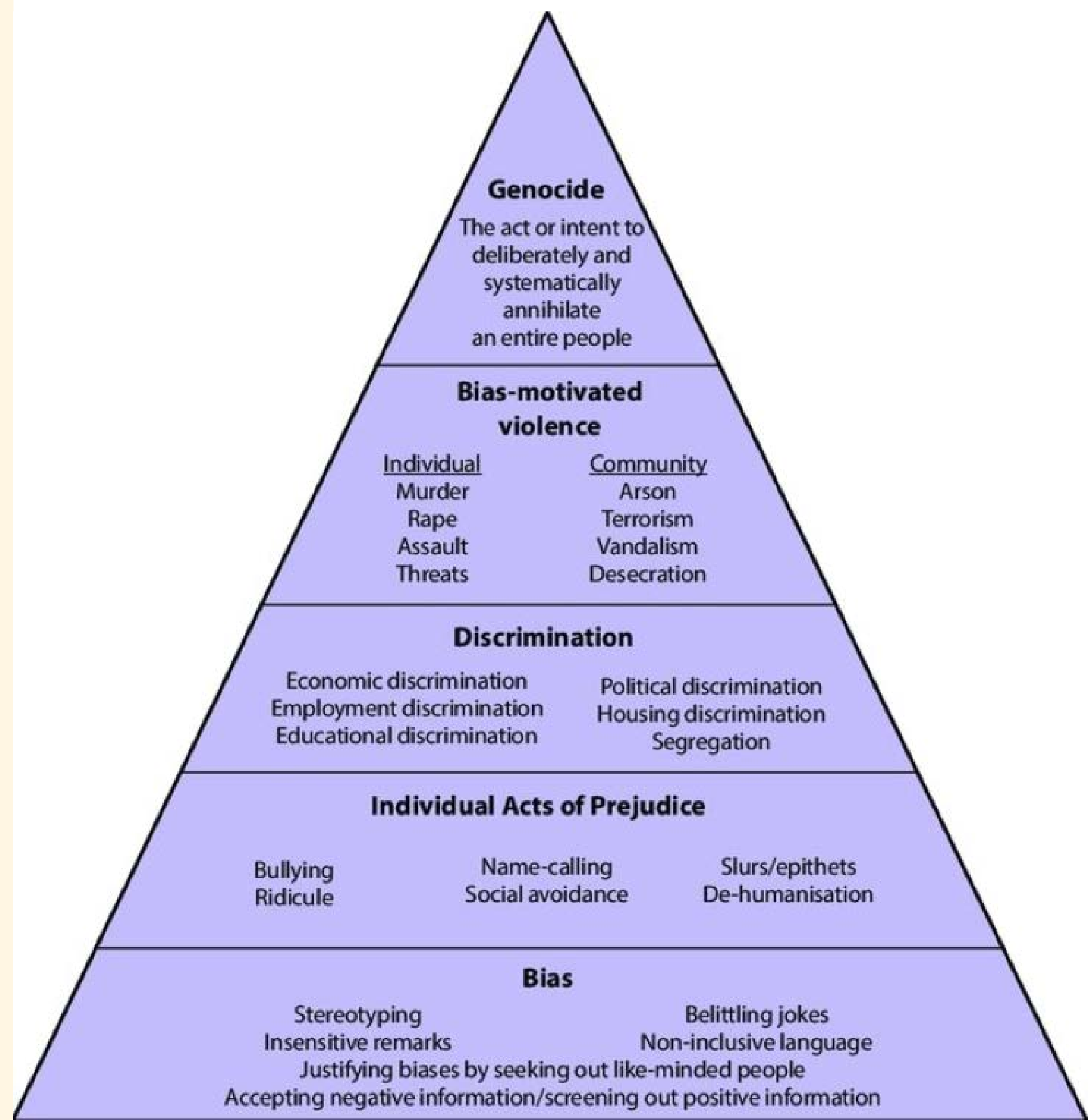Defense of traditional values

Exaggeration of group differences

Denial of positive emotions
  (especially diagnostic)

Allport's Scale of PREJUDICE

Antidefimation League's Pyramid of HATE [4]

Genocide
The act or intent to deliberately and systematically annihilate an entire people

Bias-motivated violence

Individual
Murder
Rape
Assault
Threats

Community
Arson
Terrorism
Vandalism
Desecration

Discrimination

Economic discrimination
Employment discrimination
Educational discrimination

Political discrimination
Housing discrimination
Segregation

Individual Acts of Prejudice

Bullying
Ridicule

Name-calling
Social avoidance

Slurs/epithets
De-humanisation

Bias

Stereotyping
Insensitive remarks

Belittling jokes
Non-inclusive language

Justifying biases by seeking out like-minded people
Accepting negative information/screening out positive information

Gender-Based (GBV) **VIOLENCE**

Violence directed against someone because of their gender (identity, expression, or perceived gender) or violence that disproportionality impacts persons of certain genders.

Sexual Violence

Intimate Partner Violence

Violence Against Trans & Queer Individuals

GBV STATISTICS

~1 in 3
Women globally have experienced IPV &/or sexual violence[5]

~1 in 2
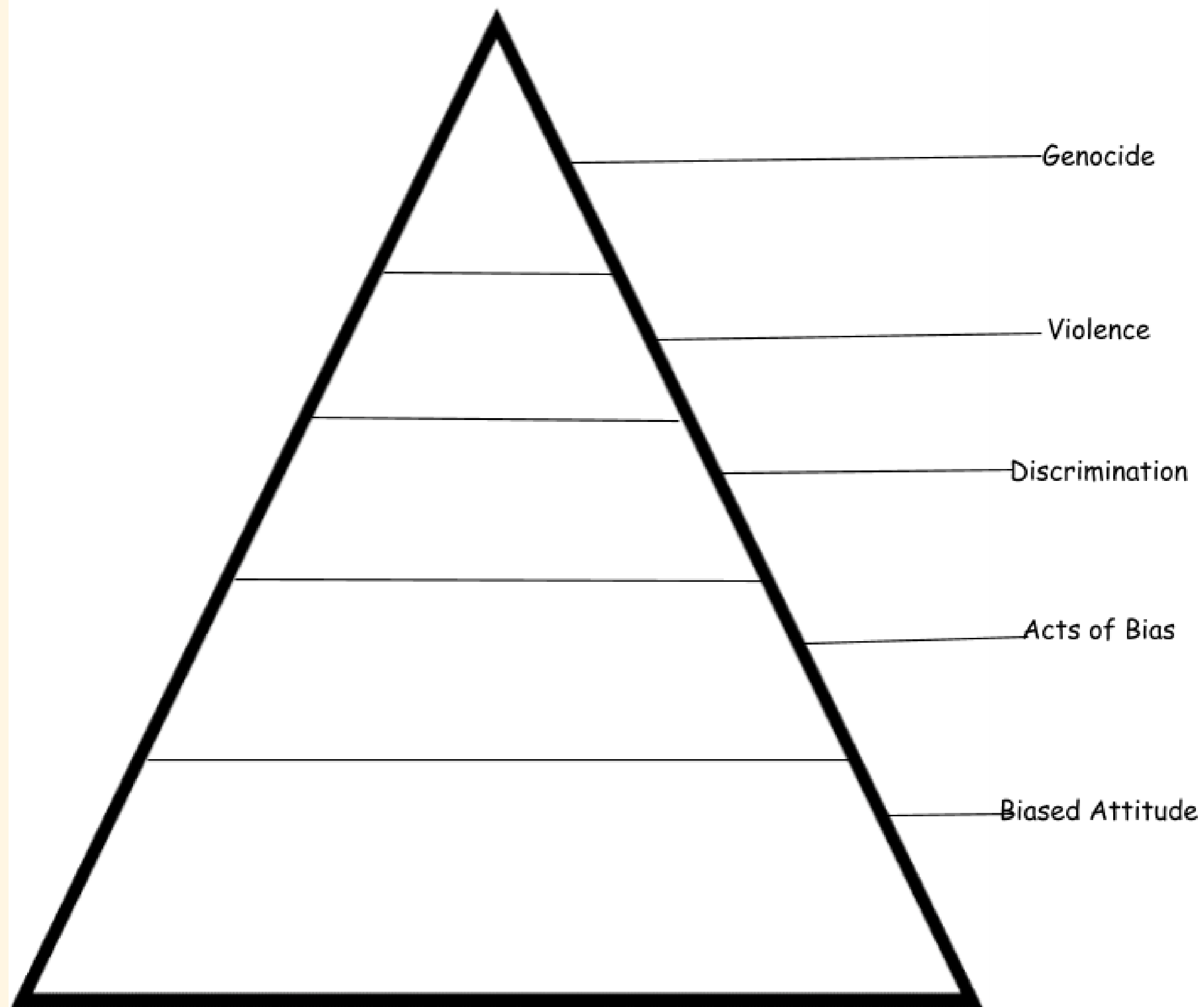Trans individuals in the US have experienced IPV &/or sexual violence[6]

~75%
of Bisexual Women in the US have experienced sexual violence[7]

~60%
of Bisexual Women in the US have experienced IPV[7]

GBV
Pyramid of
HATE

Genocide

Violence

Discrimination

Acts of Bias

Biased Attitude

CULTURAL CONTRIBUTORS

Johnson, N. L., & Johnson, D. M. (2021). An empirical investigation into the measurement of rape culture. *Journal of Interpersonal Violence, 36*(1-2). NP70-95NP. https://doi.org/10.1177/0886260517732347v

Figure 1. Proposed model of rape culture.

Rape Culture – broadly defined as an environment that excuses and supports sexual violence.

Definition provides limited information regarding what creates/contributes to such a culture and in turn how to impact and transform said culture[6].

Supported model encompassing societal adherence to:

- Traditional Gender Roles (Feminine & Masculine)

- Sexism (Hostile & Benevolent)

- Hostility Toward Women

- Adversarial Sexual Beliefs
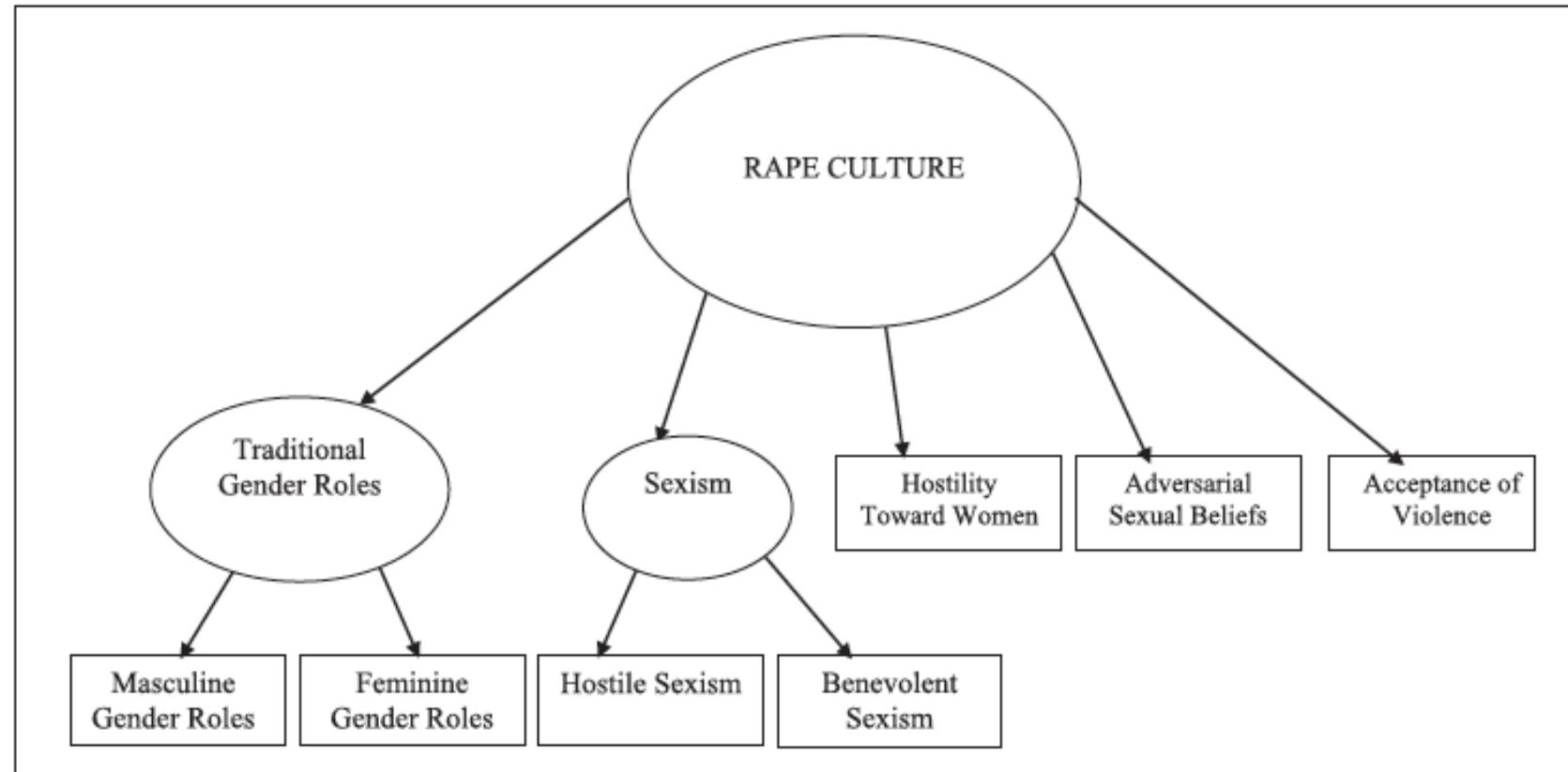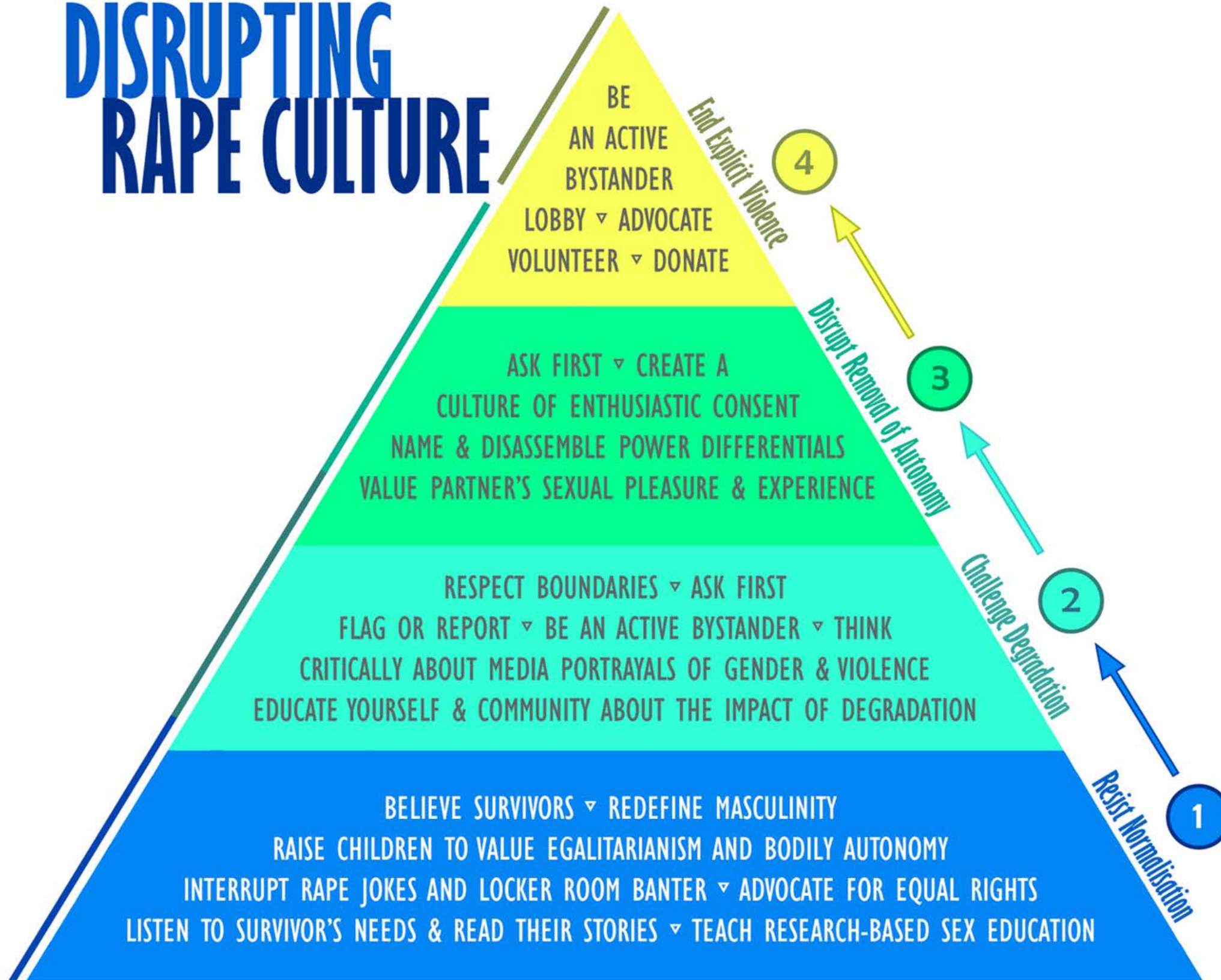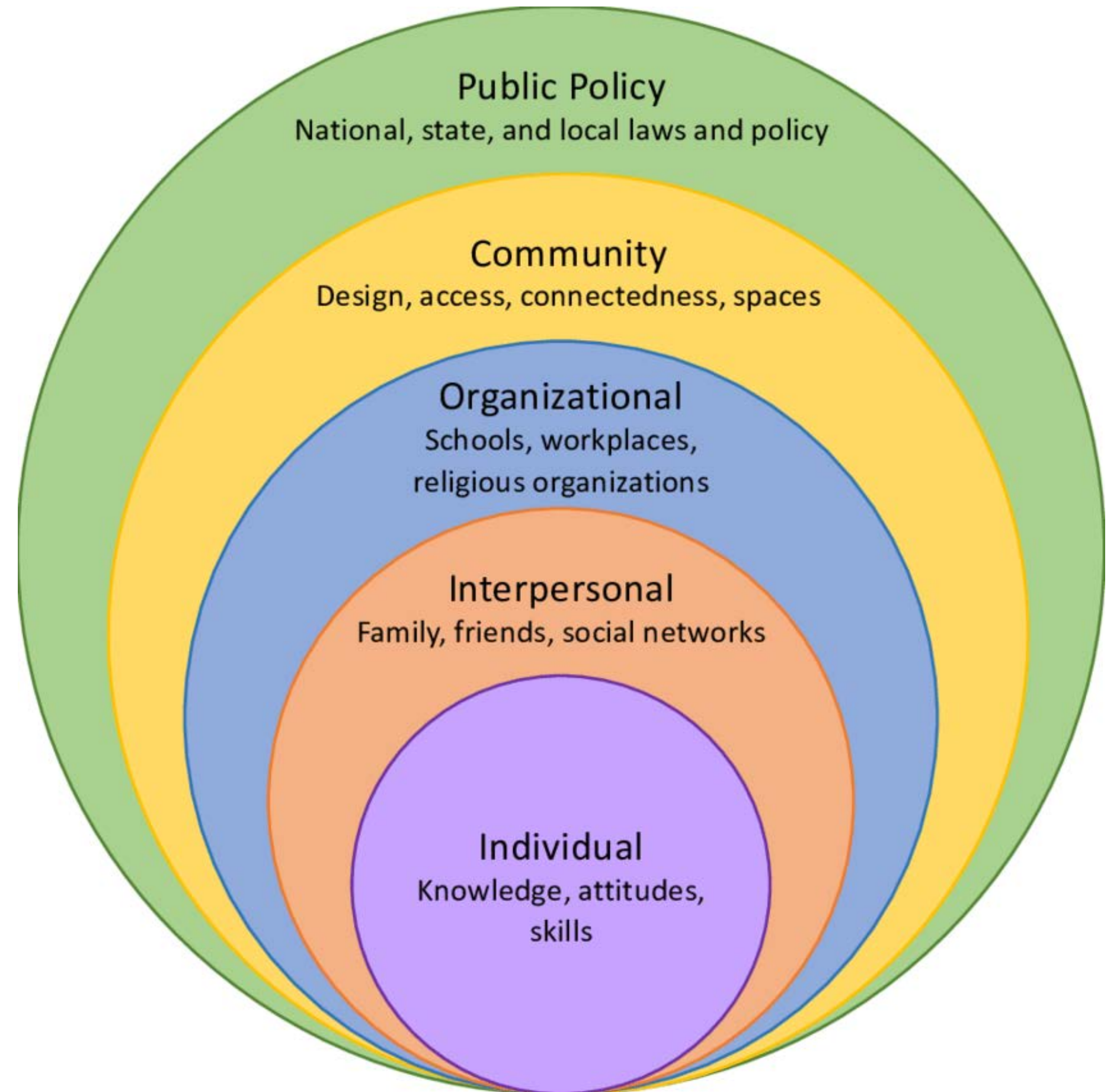
- Acceptance of Violence

Ecological Framework[11]

Public Policy
National, state, and local laws and policy

Community
Design, access, connectedness, spaces

Organizational
Schools, workplaces,
religious organizations

Interpersonal
Family, friends, social networks

Individual
Knowledge, attitudes,
skills

Ecological Framework

Sexual Violence[12]

Table 1. The Ecological Model

Individual
Influences: attitudes and beliefs that support sexual violence; impulsive and antisocial behavior; childhood history of sexual abuse or witnessing violence; alcohol and drug use

Relationship
Influences: association with sexually aggressive peers; family environment that is emotionally unsupportive, physically violent or strongly patriarchal

Community
Influences: general tolerance of sexual assault; lack of support from police or judicial system; poverty; lack of employment opportunities; weak community sanctions against perpetrators

Societal
Influences: inequalities based on gender, race, and sexual orientation, religious or cultural beliefs, economic and social policies

CULTURAL CONTRIBUTORS

Johnson, N. L., Lipp, N. S., Corbett-Hone, M., & Langman, P. (2023). Not so random acts of violence: Shared social-ecological features of violence against women and school shootings. *Psychology of Men & Masculinities, 25*(2). 113-123. https://doi.org/10.1037/men0000445
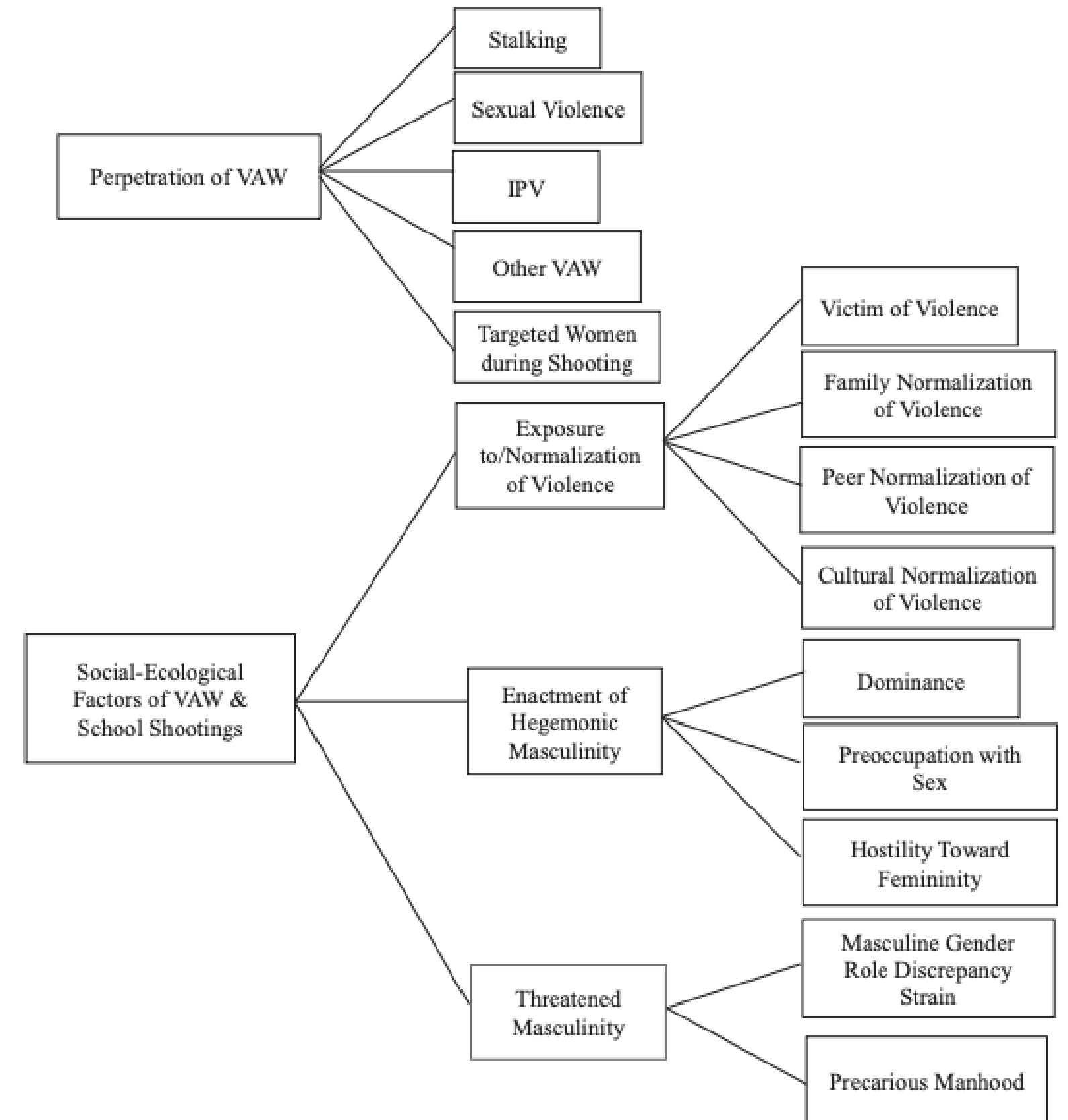
~71% of school shooters **perpetrated VAW.**

~53% purposely targeted women in their attacks.

~44% perpetrated VAW **before the day of the shooting.**

We may want to consider violence against women as a **warning sign** for school shooting behavior**.**
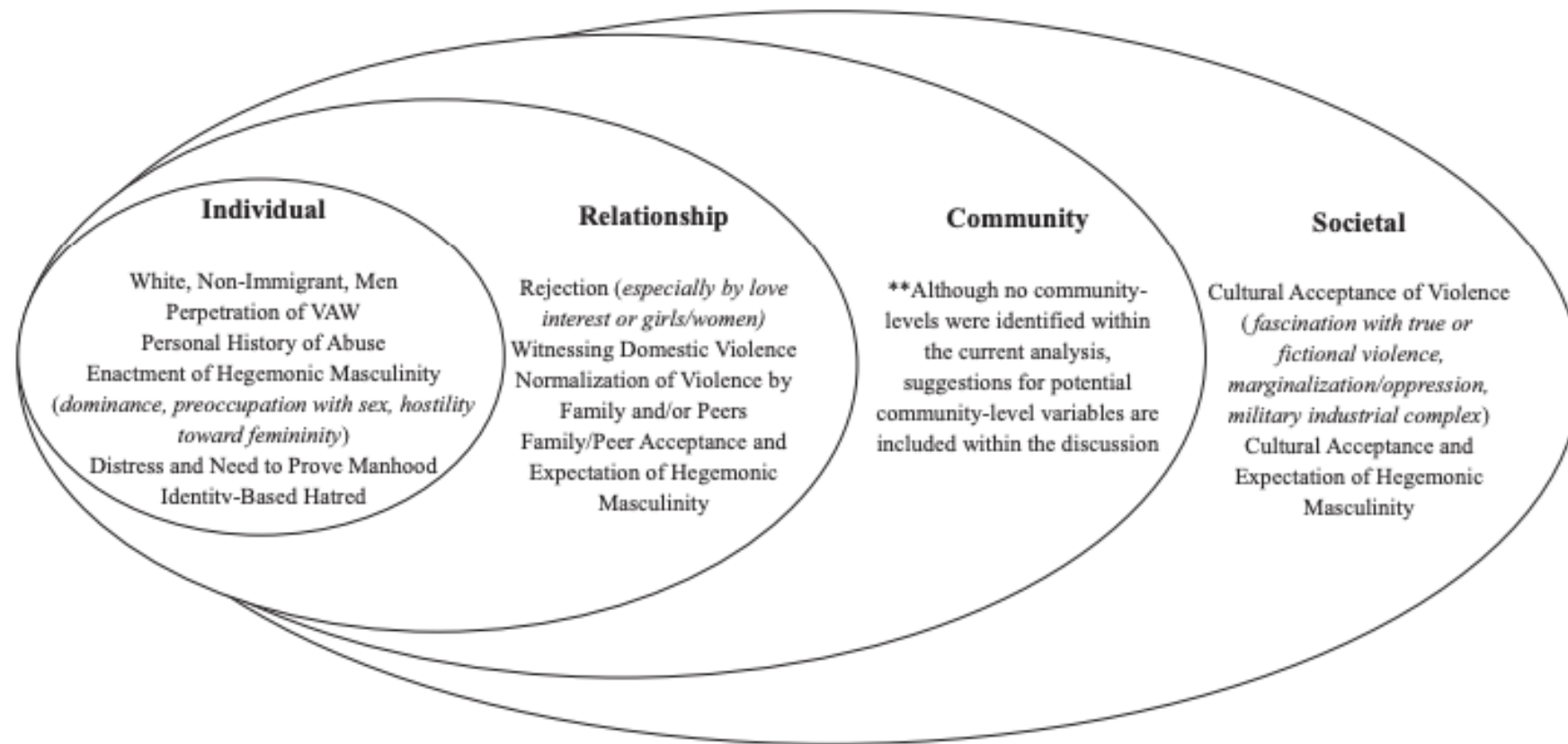
Figure 1
Coding Tree

Note. VAW = violence against women; IPV = intimate partner violence.

CULTURAL CONTRIBUTORS

Johnson, N. L., Lipp, N. S., Corbett-Hone, M., & Langman, P. (2023). Not so random acts of violence: Shared social-ecological features of violence against women and school shootings. *Psychology of Men & Masculinities, 25*(2). 113-123. https://doi.org/10.1037/men0000445

Over **40%** had been **recently denied by a love interest** prior to their attacks, and some believed this justified their shootings.

When men can't meet the **expectations of hegemonic masculinity,** they experience **threatened masculinity**, and some attempt to re-assert their masculinity through violence, often in escalating forms.

98% had a documented history of threatened masculinity

Figure 1
Coding Tree
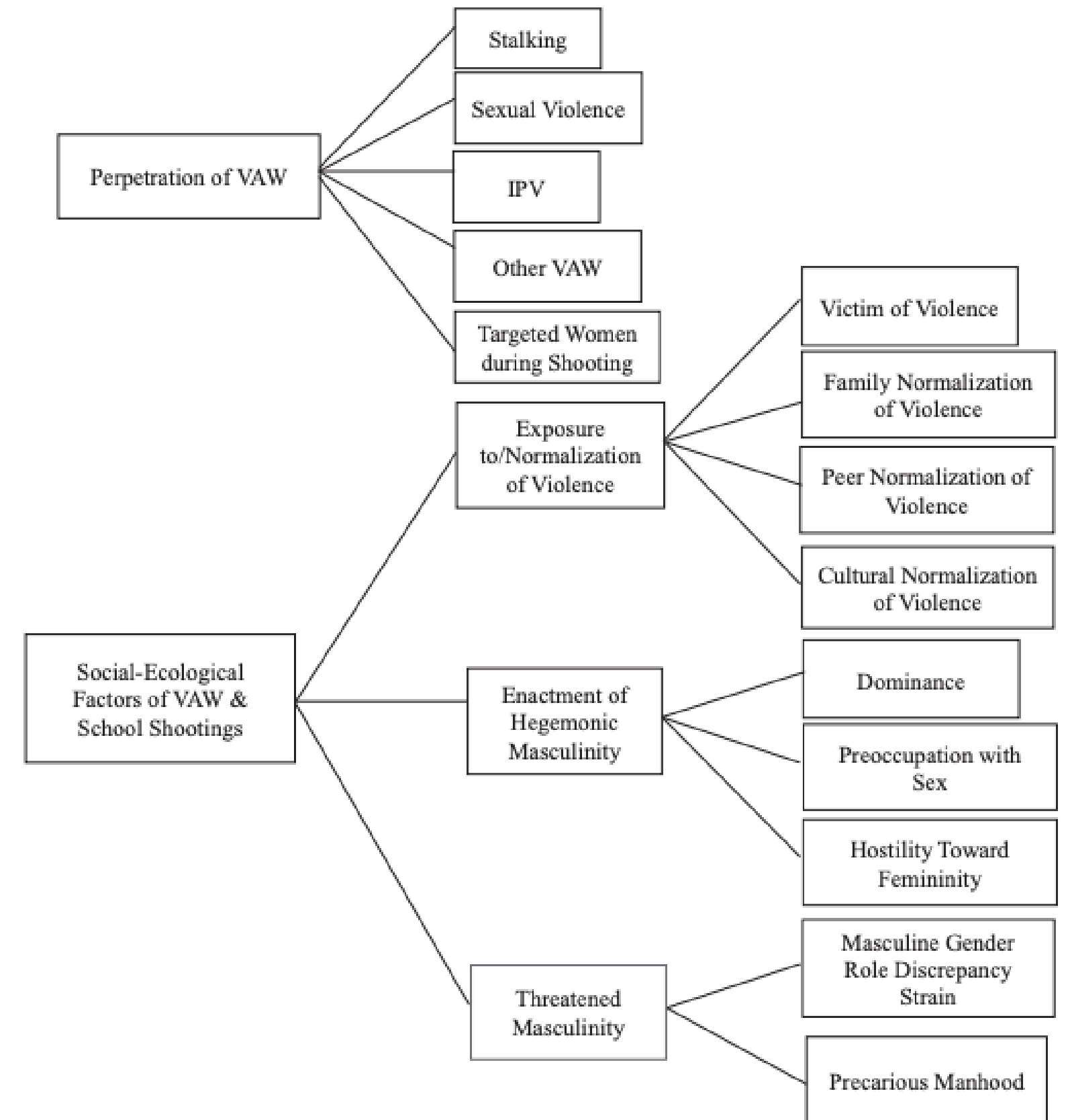
Note.   VAW = violence against women; IPV = intimate partner violence.

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Johnson, N. L., Lipp, N. S., Corbett-Hone, M., & Langman, P. (2023). Not so random acts of violence: Shared social-ecological features of violence against women and school shootings. *Psychology of Men & Masculinities, 25*(2). 113-123. https://doi.org/10.1037/men0000445

Figure 2
Social–Ecological Model of VAW and School Shootings

Individual	Relationship	Community	Societal
White, Non-Immigrant, Men Perpetration of VAW Personal History of Abuse Enactment of Hegemonic Masculinity (*dominance, preoccupation with sex, hostility toward femininity*) Distress and Need to Prove Manhood Identity-Based Hatred	Rejection (*especially by love interest or girls/women*) Witnessing Domestic Violence Normalization of Violence by Family and/or Peers Family/Peer Acceptance and Expectation of Hegemonic Masculinity	**Although no community-levels were identified within the current analysis, suggestions for potential community-level variables are included within the discussion	Cultural Acceptance of Violence (*fascination with true or fictional violence, marginalization/oppression, military industrial complex*) Cultural Acceptance and Expectation of Hegemonic Masculinity

Note. VAW = violence against women. The italics signify examples of the construct listed prior.
** signifies a note to the reader.

What can we do?

Societal recognition of the dangers of hegemonic masculinity and normalization of violence.

School and community interventions to redefine masculinity as compassionate and encourage more flexible gender roles.

Creating proactive early response systems of support for people exhibiting violence and/or hostility toward women.
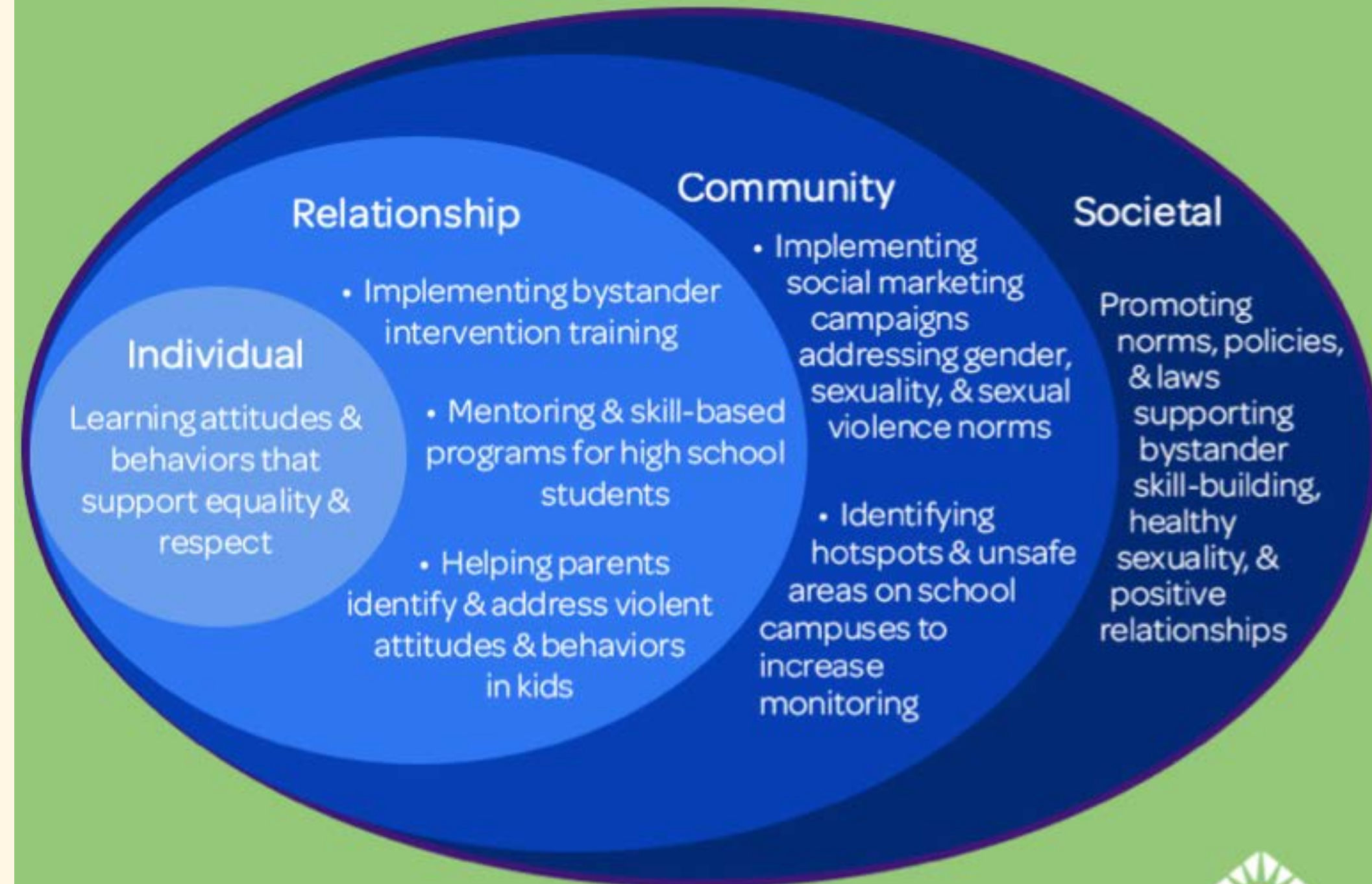
Additional suggestions?

SPECTRUM OF PREVENTION

Level of Spectrum	Definition of Level	Examples
Strengthening Individual Knowledge and Skills	Enhancing an individual's capacity to prevent injury and promote safety	Bystander training
Promoting Community Education	Reaching groups of people with information and resources to promote health and safety	Stage community performances that reinforce positive cultural norms and models of bystander action
Educating Providers	Informing providers who will transmit skills and knowledge to others	Train teachers to build skills to interrupt inappropriate comments and promote behaviors that foster nonviolence
Fostering Coalitions and Networks	Bringing together groups and individuals for broader goals and greater impact	Engage grassroots, community-based organizations and sectors of government
Changing Organizational Practices	Adopting regulations and shaping norms to improve health and safety	Implement and enforce sexual harassment and sexual violence prevention practices in schools
Influencing Policy and Legislation	Developing strategies to change laws and policies to influence outcomes	Establish policies at schools to provide sexual violence prevention curriculum to all students and training to all staff

Ecological Framework
Violence Prevention[12]

Encouraging Work at All Levels Prevents Sexual Violence

Strategies may include:

Individual
Learning attitudes & behaviors that support equality & respect

Relationship
• Implementing bystander intervention training
• Mentoring & skill-based programs for high school students
• Helping parents identify & address violent attitudes & behaviors in kids

Community
• Implementing social marketing campaigns addressing gender, sexuality, & sexual violence norms
• Identifying hotspots & unsafe areas on school campuses to increase monitoring

Societal
Promoting norms, policies, & laws supporting bystander skill-building, healthy sexuality, & positive relationships

Learn more about sexual violence prevention from CDC:
http://www.cdc.gov/violenceprevention/sexualviolence/prevention.html.

VetoViolence

CDC Community Violence **Prevention**[15]

Strategies and Approaches
to prevent community violence

STRATEGY	APPROACH
Strengthen Economic Security	• Tax credits • Income support policies • Social insurance programs • Investment accounts
Provide Quality Education	• Preschool enrichment with family engagement • Equitable educational attainment for youth and young adults
Create Protective Environments	• Modify the physical home environment • Modify the physical and social community environment • Reduce exposure to harmful community conditions
Promote Healthy Family Relationships	• Early childhood home visitation programs • Parenting skills and family relationship programs
Strengthen Youths' and Young Adults' Skills	• School-based skill building programs • Job training and employment programs
Connect Young People to Caring Adults and Activities	• Mentoring programs • After-school programs
Intervene to Lessen Harms and Prevent Future Risk	• Treatment to lessen the harms of violence • Treatment to prevent problem behaviors and further experiences with violence • Hospital-based violence intervention programs • Street outreach and community norm change • Community-justice partnerships

CULTURAL CONTRIBUTORS

Johnson, N. L., & Grove, M. B. (2017). Why us? Toward an understanding of bisexual women's risk for and negative consequences of sexual violence. *Journal of Bisexuality, 17*, 435-450. https://doi.org/10.1080/15299716.2017.1364201

~75%

of Bisexual Women in the US have experienced sexual violence[5]

~60%

of Bisexual Women in the US have experienced IPV[5]

High rates of GBV against Bisexual Women - WHY?

Hypothesized factors interacting across ecological domains

1) Substance Use

1) Hypersexualization

1) Biphobic Harassment

Individual	Relationship	Community	Societal
Sexual Minority Identity Female Sex Personal Substance Use Internalization of: Hypersexualization, Heterosexism, Biphobia, Sexism	Partner, Family, Peer: Substance Use Hypersexualization Rejection Heterosexism, Biphobia, Sexism	LGBT Community Substance Use LGBT and Heterosexual Communities: Hypersexualization of Bisexuals, Rejection of Bisexuals, Biphobia, Sexism Heterosexual Community: Heterosexism	Structural (e.g., economic, legal, and social policies/beliefs) Heterosexism, Biphobia, Sexism Media Depictions of Bisexual Women

Figure 1. The ecological model of sexual violence applied to bisexual women.

DEHUMANIZATION

Animalistic Dehumanization
   Denies the rejected outgroup human attributes

Mechanistic Dehumanization
   Views the outgroup as objects

Groups viewed as **low competence**, **low warmth**
especially disparaged

Mental loophole that lets us harm other people
      Regions of the brain tied to **disgust turn on** and
   empathy turn off

I AM
HUMAN
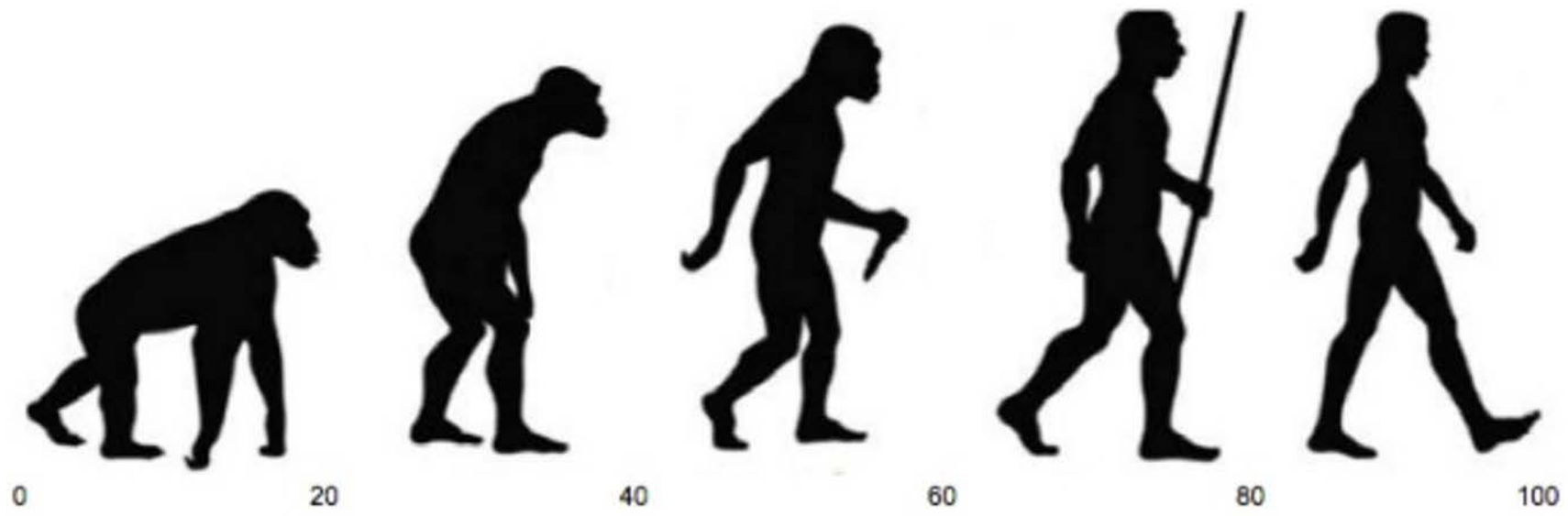
Ascent of Man
SCALE[18]

CULTURAL CONTRIBUTORS

Perceived Peer

1) Hostile Sexism

1) Biphobia

1) Dehumanization

all significant related to sexual violence

However, **only peer bostile sexism** and **biphobia** emerged as **unique predictors** of sexual violence

~72%

of Bisexual Women in the sample reported experiencing sexual violence in the last year

~93%

of those, reported being raped in the last year.

How civilized or evolved does your social group think bisexual women are?
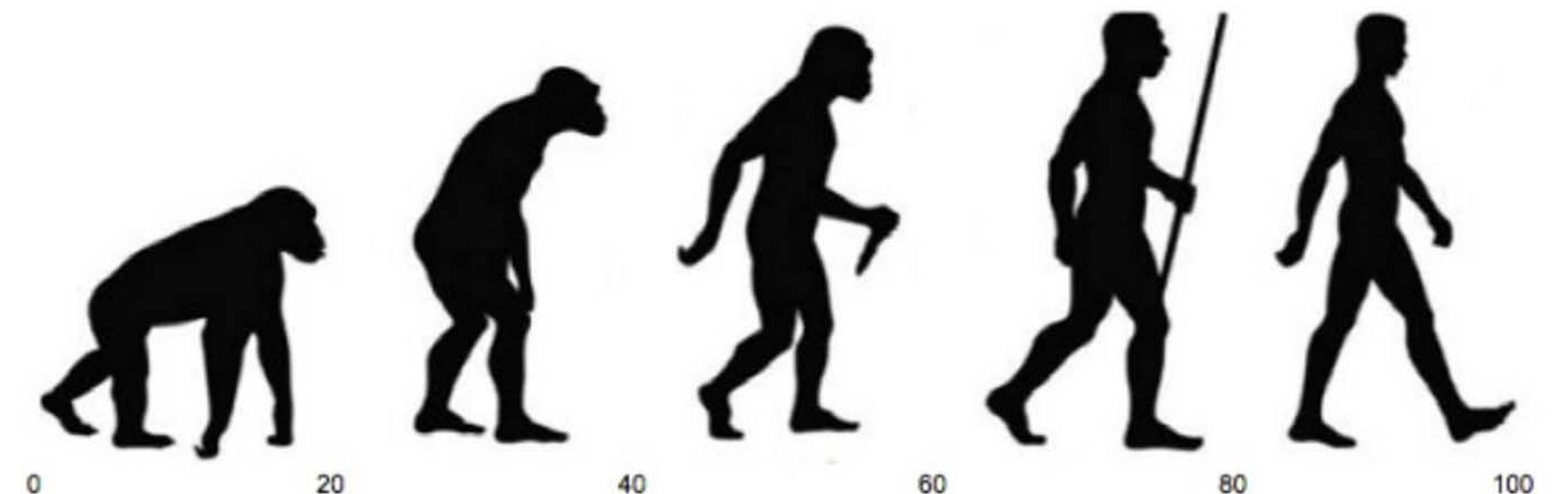
M= 83.02; SD =17.33

REDUCING
Dehumanization[17]

Sexual Objectification
Reducing relevance of sexual body parts and adding humanizing information about women.

Animal/Human Divide
Changing the way in which animals are perceived could reduce dehumanization of some groups associated with animals.

Religious Prejudice
Thinking of God's view of ethno-religious outgroups compared with one's own view reduces intergroup dehumanization.

REDUCING
Dehumanization[17]

Metahumanization
Thinking outgroup member do not dehumanize my group.

Multiple-categorization
Think about the numerous groups an outgroup member can belong to (immigrant, father, Christian, chef, animal lover).

Counterstereotypic Categorization
Think about inconsistent membership (female mechanic, Muslim gay).

Pyramid of **ALLIANCE**[20]

Peace

Love

Inclusion

Acts of Kindness

Attitude of Equality
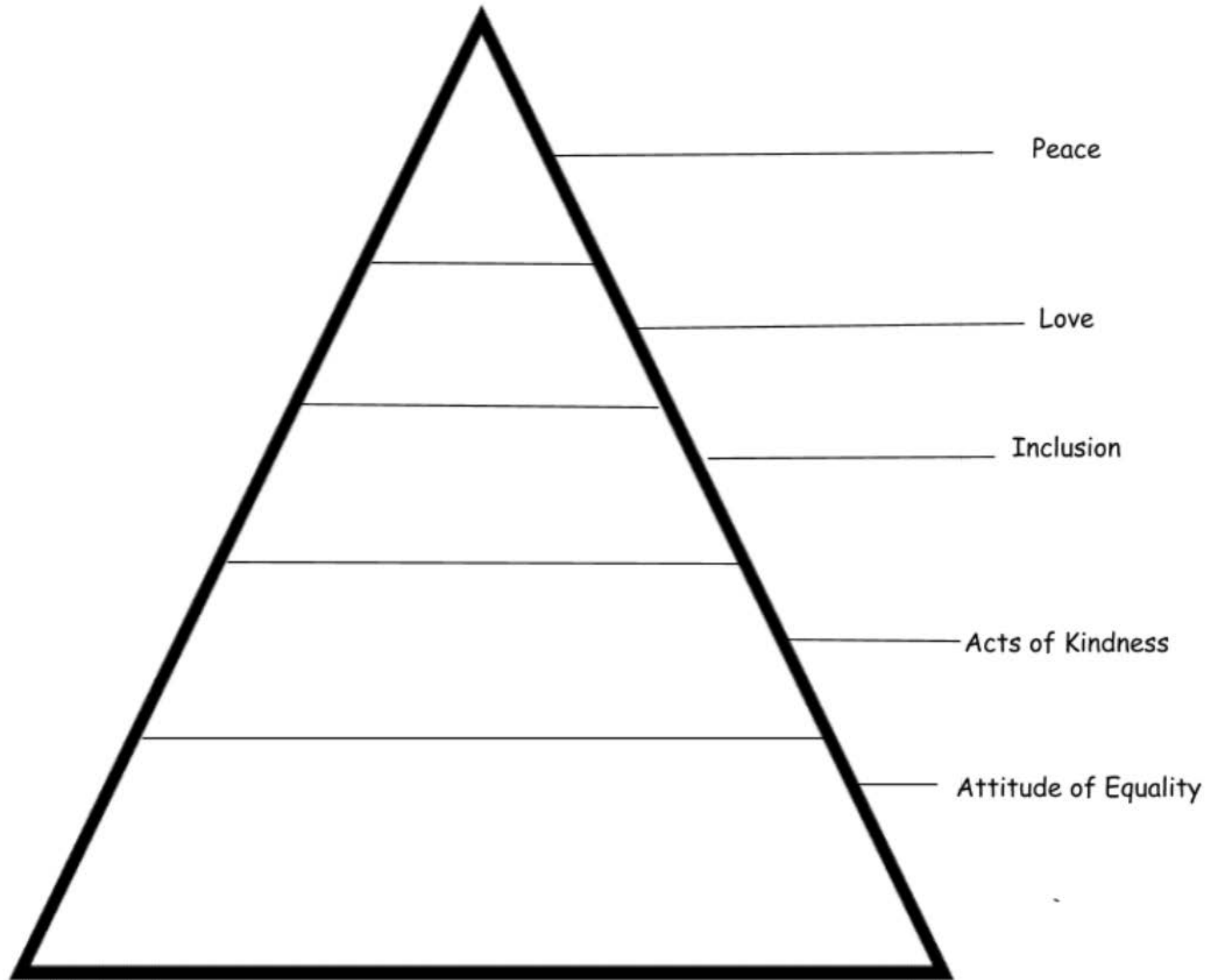
THANK YOU! QUESTIONS?

contact: nij316@lehigh.edu

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Defining Terms

Defining Terms: Title IX

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 education program
or activity receiving Federal financial assistance."

20 U.S.C. § 1681 & 34 C.F.R. Part 106

TITLE IX
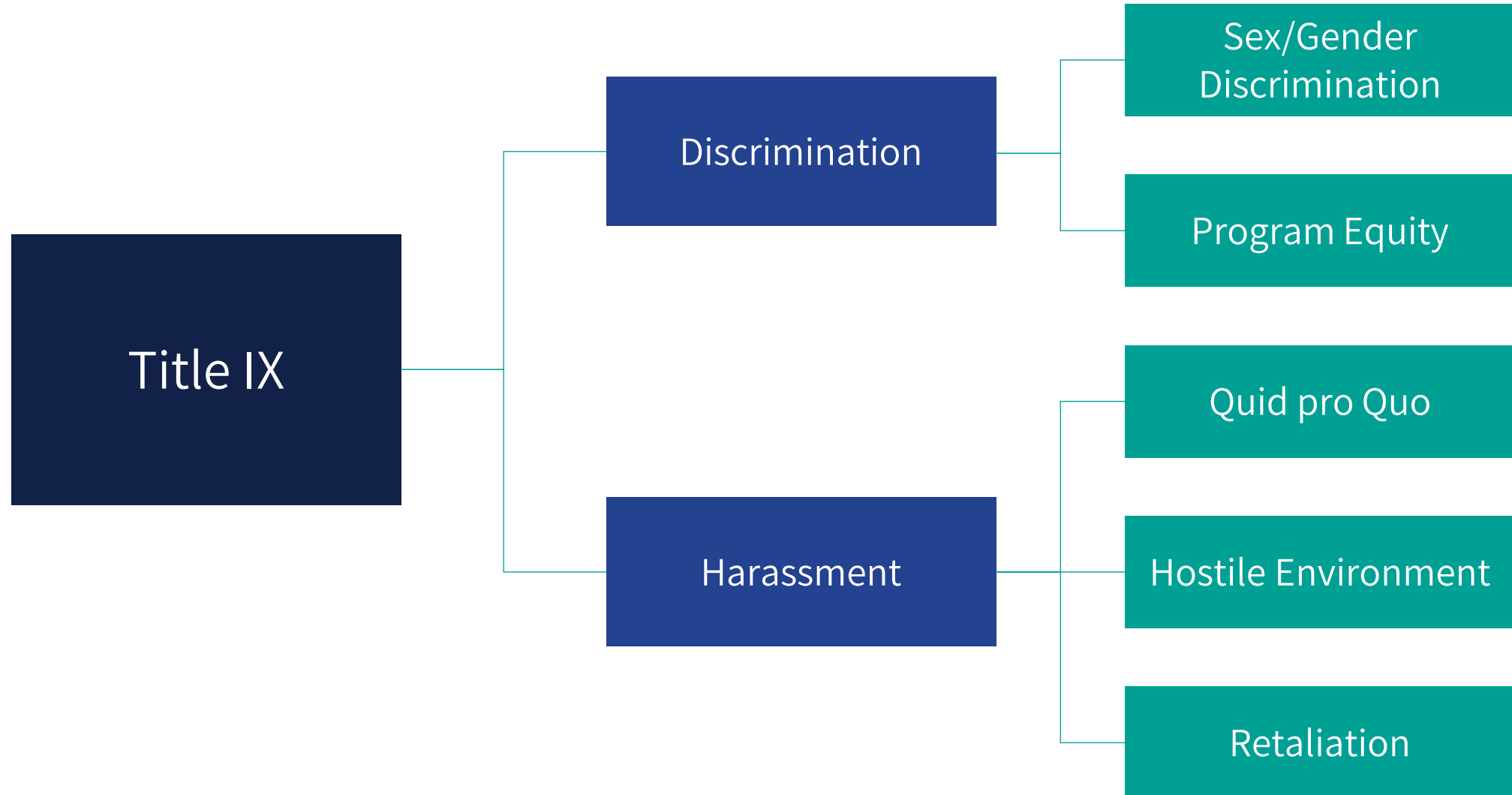
Title IX office is responsible for addressing *discrimination based on sex, providing education and development, and following a fundamentally fair process.*

Investigate
the incident

Stop
the discrimination

Prevent
its recurrence

Remedy
the effects

Defining Terms: BIT

BIT

"Behavioral Intervention Teams are small groups of school officials who meet regularly to collect and review concerning information about at-risk community members and develop intervention plans to assist them."

- NaBITA Advisory Board, 2018

Teams address cases across the spectrum of risk.

LOW RISK

RISK

HIGH RISK

BIT Process

Gather Data → Rubric/Analysis → Intervention
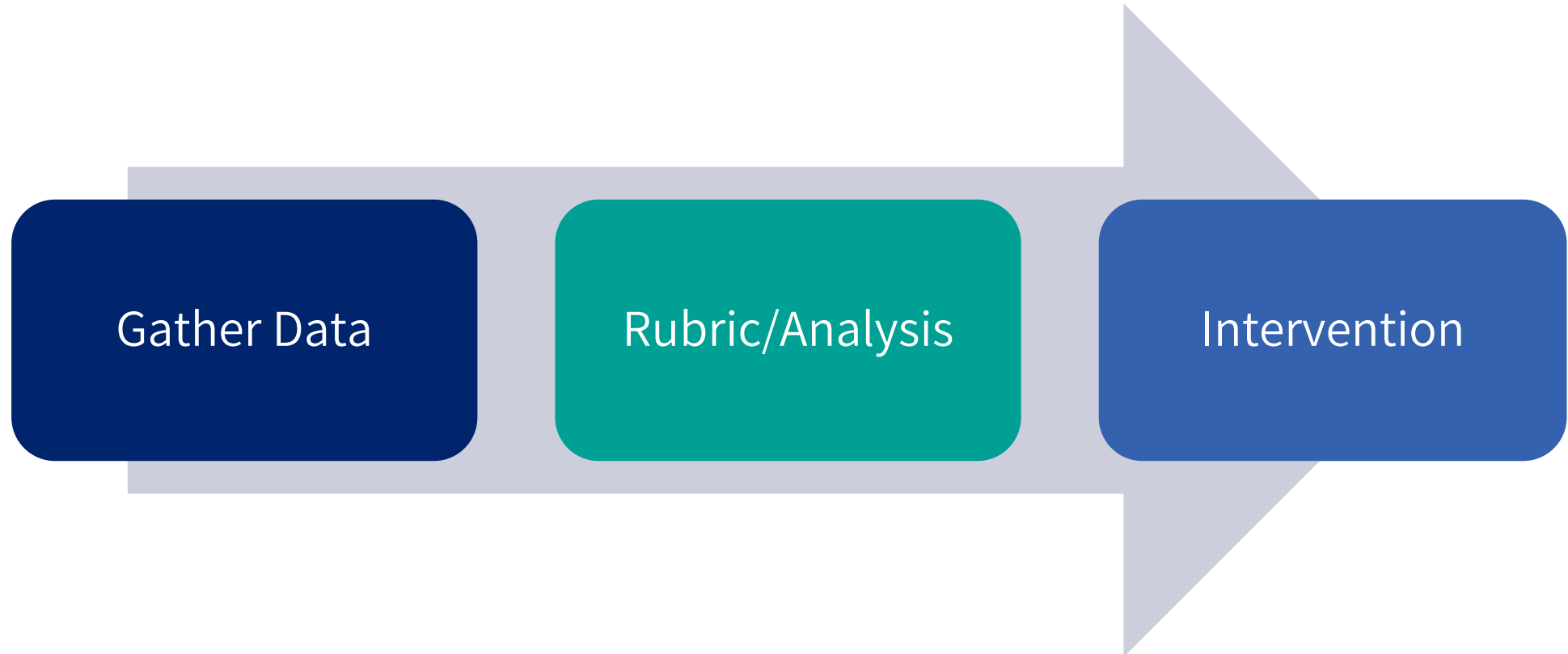
The BIT Process

Gather Data

- Train our communities on indicators of distress, crisis, and threat.
- Create a centralized process for referring concerns.
- Establish a team for regularly reviewing referrals.

Rubric/Analysis

- Train team to use an objective rubric to triage referrals and determine level of risk.
- In cases of higher risk or threatening behavior, conduct a violence risk assessment.

Intervention

- Interventions respond to risk level.
- Connect to resources to address distress or risk.
- Restrict means and engage in safety planning.
- Skill building around conflict management, emotion regulation, softening points of view, etc.

Intersection of Title IX and BIT

Distinguishing Title IX and BIT Responsibilities

Title IX

- Addresses sex-based harassment and discrimination
- Stop, prevent, and remedy
- Responds to reports of covered behaviors
- Investigatory process to determine outcomes

BIT

- Responds to all types of concerns
- 3-phase process to mitigate risk
- Respond holistically to needs
- Not disciplinary in nature

Incidents do not have to rise to the level of needing a VRA to refer to BIT!

Mutual Referrals and Overlap

FERPA ALLOWS YOU TO DO THIS

Title IX and BIT

Title IX Cases

Cases involving incidents of aggression, threats of violence, violence, harm to self, stalking, hazing, vandalism, substance abuse.

For example:

Complainant experiences hallucinations that cause them to believe they are being stalked.

Respondent has history of suicidal ideation.

Employee's ex-partner repeatedly calls the workplace and makes threats to employee and coworkers.

BIT Cases

Referrals to the BIT that have components of sex-based violence necessitating Title IX-based response.

For example:

Multiple women report that a male student is "making them uncomfortable" and behaving strangely.

Employee notifies campus police that they recently obtained an order of protection from their estranged spouse.

Student employee has been frequently late to work, is overheard arguing with their partner on the phone, and has visible bruising on multiple occasions.
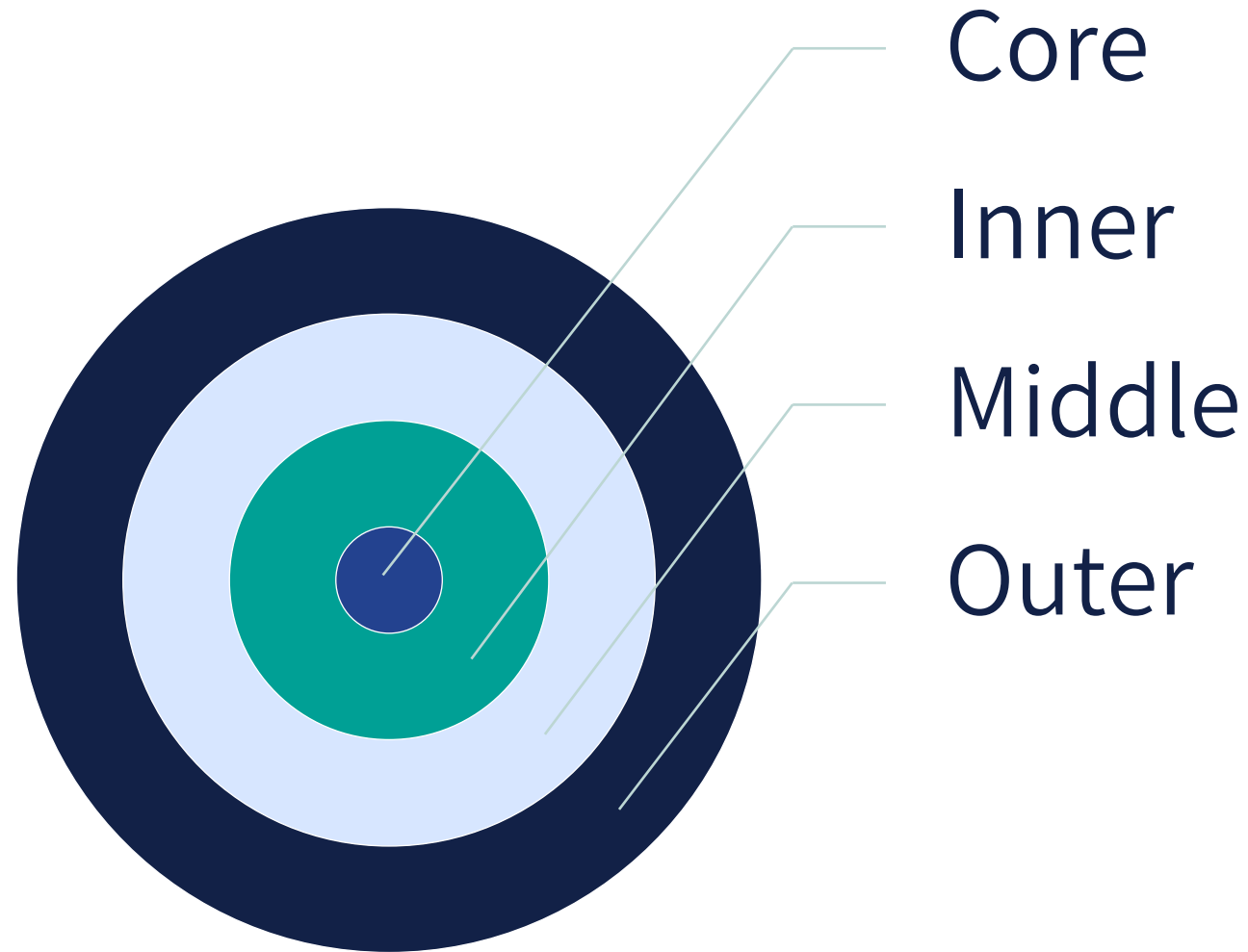
NABITA

Participation on the BIT

Core

Inner

Middle

Outer
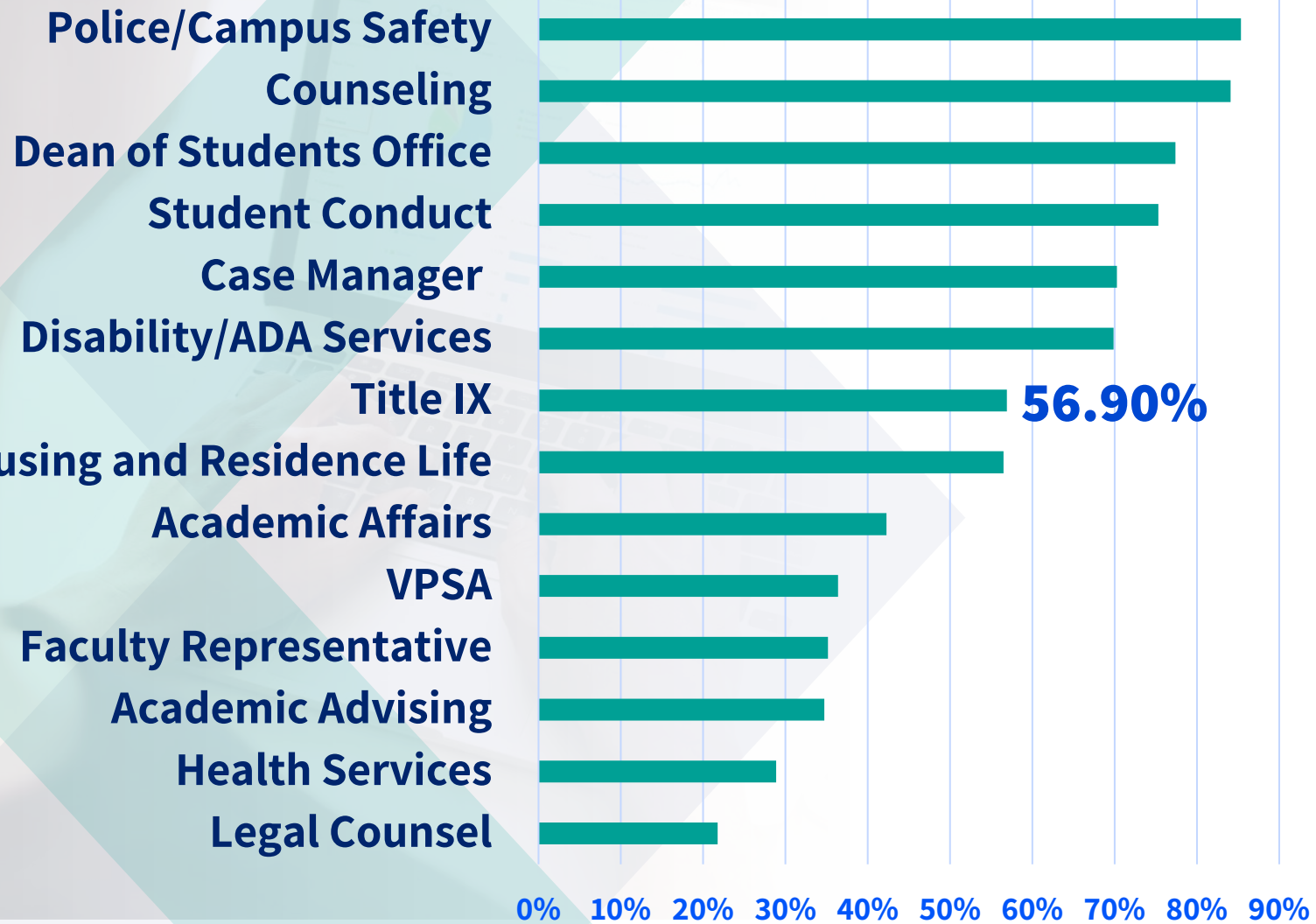
Title IX Participation on the BIT

Membership

- Title IX likely serves as a middle circle member
- May serve as an inner circle member, depending on scope of role and the institution

Position

- Title IX Coordinator or Deputy Coordinator should be the liaison with the BIT
- Avoid an Investigator serving as the liaison due to potential conflicts of interest

Responsibility

- As a middle circle member, Title IX is:
    - Invited when they may have insight into a report
    - Aware of who is on the agenda to be discussed
    - Has limited to no access to the entire BIT database

Training

- Title IX Coordinator should be well-trained in BIT philosophy, procedure, and operations
- BIT members should be well-trained in scope of Title IX and how to make a Title IX report

Information Sharing
Title IX to BIT

Reports
Threats of or engagement in violence, stalking, harassment, etc.

Content
Concerns discovered related to student's functioning, well-being, needs for support, etc.

Outcomes
Informal/formal resolutions, sanctions, remedies, pending criminal investigations

Support
Information related to supportive measures to avoid duplication/gaps

Information Sharing
BIT to Title IX

Reports
Reports that contains components of sex/gender-based harassment or discrimination

Content
For shared reports, the initial referral information and other collateral information gathered

Interventions
Information related to intervention and support plan

Assessment
For shared reports, the assessment results related to Risk Rubric, VRAWW, or SIVRA

VRA Process

Process for issuing VRA as part of emergency removal consideration

Emergency Removal

- When considering an Emergency Removal for allegations of sex discrimination, Title IX regulations mandate an individualized safety and risk analysis
  - To determine if an **imminent and serious threat**
    - to the health or safety
    - of a Complainant, or any students, employees, or other persons
- **Imminent threat: may not be active or immediate, but are likely to occur soon**
- **Serious threat: includes non-physical threats**
  - Non-physical threats can be assessed as objectively as physical threats
- **An intentionally high standard; Emergency Removal should be rare**
- **2024 Regulations do not specify elements of an individualized safety and risk analysis**

Emergency Removal

- A student Respondent may be removed from the education program or activity on a limited emergency basis, only after:
  - A completed individualized safety and risk analysis
  - Determination of an imminent and serious threat to the health or safety
  - Respondent has been provided notice and an opportunity to challenge the decision immediately following a removal

- All rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act must be upheld

- The Emergency Removal provision cannot be used to permanently remove a Respondent from the education program or activity

Employee Administrative Leave

- The Emergency Removal process does not apply to employees

- Non-student employee Respondents can be placed on administrative leave during the Title IX Resolution Process
  - Follow institutional/district policy

- All rights provided under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act must be upheld

Title IX VRA Process

TIXC receives report or complaint → TIXC completes Title IX VRA Referral Protocol → TIXC refers Respondent to BIT/appropriately trained VRA Assessor → Assessor conducts VRA → Assessor writes and shares VRA report and recommendations with TIXC → TIXC determines Emergency Removal appropriateness and other supportive measures
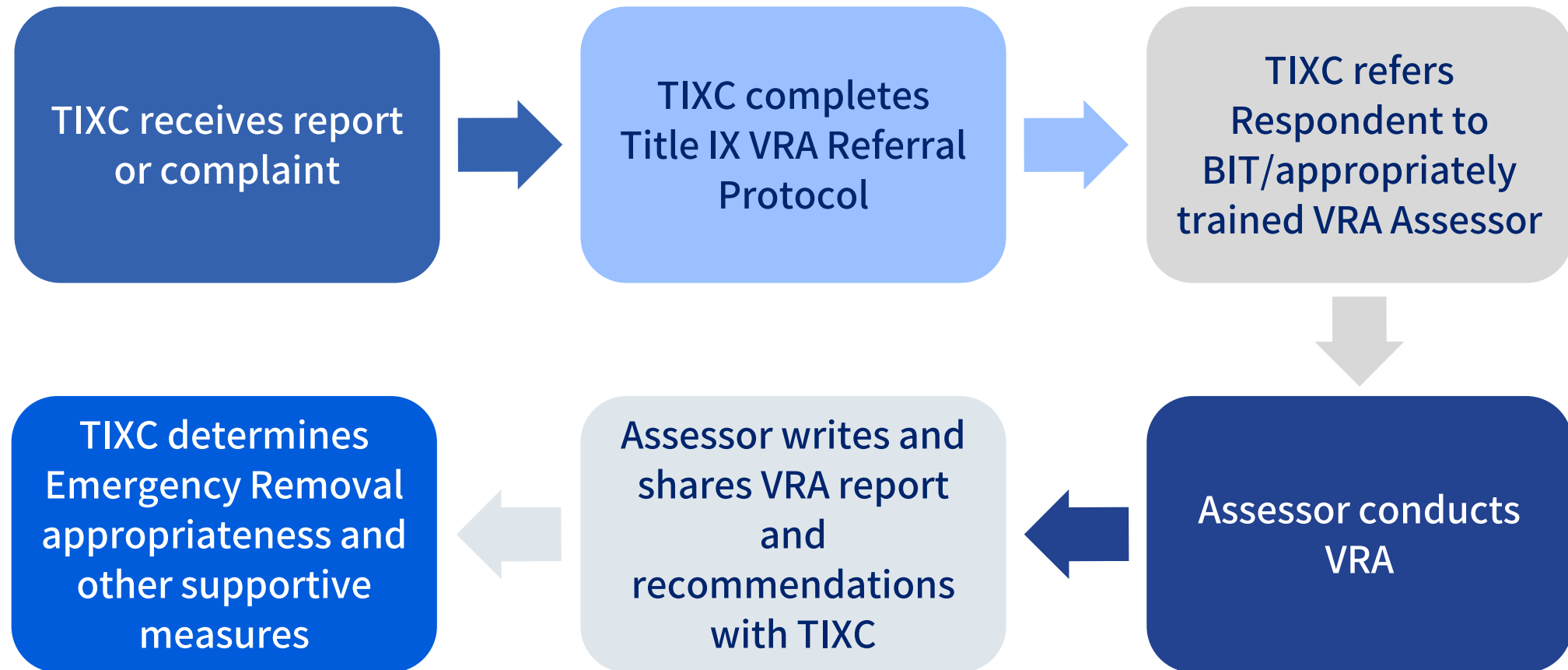
VRA Results

- The Assessor should compile the VRA results (or scores) into a comprehensive VRA report and provide it to the TIXC at the conclusion of the assessment

- VRA report guides the Title IX and/or BIT/Care Team interventions
  - Should highlight the risk and protective factors
  - **Should clearly articulate the risk present**, including the risk factors that make it more likely the individual may engage in serious or imminent and serious violence (typically based on objective scoring)

- **VRA report provides the objective basis for Emergency Removal determination**

- Institutions/Districts should consider using a template for the VRA report to ensure consistency across reports and thorough documentation

Using Results to Inform Decisions

- Where is the location of the risk?

- Who is at risk?

- What is the level of risk?

- What is the appropriate interim action based on the risk level?
  - Emergency Removal?
  - Other supportive measures?

Supportive Measures

- **Provided to all parties throughout the process:**
  - Non-disciplinary, non-punitive
  - Individualized
  - Restore or preserve equal access
  - Without unreasonably burdening other party
  - Protect safety of parties or environment, or deter sexual harassment

- **If supportive measures not provided, document why not**

THANK YOU

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Preventing and Addressing Retaliation Resulting from Sexual Harassment in Academia

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Jeena Thomas, *Editor*

NATIONAL ACADEMIES

*Sciences
Engineering
Medicine*

Contents

Introduction

Over the past several years, academia has been increasingly called upon to address the prevalence of sexual harassment[1] in its higher education institutions (see, e.g., NASEM, 2018). As institutions respond to this call, a major—and persistent—obstacle in preventing sexual harassment is the issue of retaliation.[2] Research has documented that many individuals who have sought to address sexual harassment, through reporting or bystander intervention, have experienced retaliation from those accused of harassing them. Retaliation can take myriad forms, including the following:

- job termination

- forced resignation

- verbal and physical aggression

- failed grades

- exclusion from activities

- removal of academic credit or authorship

- withholding of career-based opportunities

- reputational loss

- further sexual harassment

Pursuant to Title IX of the Education Amendments Act (20 U.S.C. §§1861-1688), Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§20002-2000e17, as amended), and various state and local laws, retaliation in academic institutions is unlawful. Even so, it can be hard to identify and prove and, in turn, to hold someone responsible. Institutional policies that only reflect the existing legal framework are subject to the same limitations of the law, which hamper efforts both to hold individuals accountable for their behavior and to promote a culture of reporting bad behavior. Such policies typically achieve institutional compliance with the law, but they may not address the lived experiences and fears of retaliation—broadly understood—that exist in academia. The National Academies of Sciences, Engineering, and Medicine 2018 report *Sexual Harassment of*

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[1] The 2018 National Academies report defines sexual harassment as consisting of three types of behavior: "gender harassment (sexist hostility and crude behavior), unwanted sexual attention (unwelcome verbal or physical sexual advances), and sexual coercion (when favorable professional or educational treatment is conditioned on sexual activity)."

[2] The legal definition of *retaliation* is described as an adverse, or negative, action or actions taken against someone because they opposed discrimination and harassment; this is further described in detail in the section "How does the Law Address Retaliation?" (see more on page 6). For the purposes of this paper, we focus on retaliation that results from opposition to sexual harassment.

Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine challenges institutions to move beyond legal compliance when addressing sexual harassment. A similar mindset of demonstrating institutional courage and moving beyond legal compliance can be applied in responding to retaliation. Furthermore, as the National Academies report recommends, institutions should develop approaches to protect those who have reported sexual harassment from experiencing or fearing retaliation, which could be done by utilizing prevention efforts that strive to minimize retaliation in the first place.

As members of the Remediation Working Group in Higher Education of the National Academies' Action Collaborative on Preventing and Addressing Sexual Harassment, we sought to understand the full implications of retaliation in higher education and develop a paper that provides relevant information for institutions to go beyond mere compliance in their anti-retaliation policies and practices. The Action Collaborative is a group of over 50 academic research institutions that are working toward targeted, collective action on addressing and preventing sexual harassment across all disciplines and among all people in higher education. The Collaborative includes four working groups (Prevention, Response, Remediation, and Evaluation) that identify topics in need of research, gather information, and publish resources for the higher education community.

Using a foundation of the current legal framework that protects against retaliation, this paper illustrates how those legal protections can fall short when various types of retaliatory actions occur in academia. The paper provides illustrative examples and proposes strategies for addressing retaliation, including a detailed description of the individualized anti-retaliation plans some institutions have begun to develop and adopt. Informed by our experiences as a sexual harassment prevention and response practitioner, faculty member, Title IX coordinator, and institutional leaders, we explore how institutions can creatively address retaliation with broader policies—policies that expand on and hone institutions' current anti-retaliation practices, engender effective communication of their response to various forms of retaliation, and support effective anti-retaliation plans.

As this is an area of growth and innovation for higher education institutions, a call for action at the end of the paper highlights next steps, including relevant questions researchers can explore and anti-retaliation policies and practices institutions can develop. While this paper does not provide legal advice, and while we recognize that many (if not all) institutions have standing anti-retaliation policies, this paper is written to inspire our fellow university leaders, practitioners addressing sexual harassment, and others involved in sexual harassment cases (including those who experience sexual harassment and observers of sexual harassment) to consider new (and potentially more successful) ways of addressing and preventing retaliation. Ultimately, we hope that improvements to how higher education institutions prevent and address retaliation will create a supportive culture where reporting sexual harassment is not only encouraged, but also where targets of such conduct are confident that raising these concerns will improve—not worsen—their situation and climate.

How Is Retaliation Problematic?

Retaliation: What It Is and How It Presents

Because many federal, state, and local laws define and prohibit retaliation, there is not one "legal" definition of the term. However, across the varying laws, retaliation is generally held to occur when an individual experiences an adverse (negative) action or actions as a direct consequence of opposing discrimination, such as by "filing a complaint of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination" (Equal Employment Opportunity Commission, 2015). Under Title VII of the Civil Rights Act of 1964, proving an adverse action under the retaliation framework requires showing that "a reasonable employee would have found the challenged action materially adverse, which in this context means it well might have 'dissuaded a reasonable [person] from making or supporting a charge of discrimination.'" (*Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006)).[3] However, "petty slights" and "minor annoyances" will not raise to the level of an adverse action (*Burlington N. & Santa Fe Ry. Co at 68.*).

Research shows how retaliation can take on many forms. A 15-year study of 129 claims of retaliation stemming from complaints of sexual harassment showed that retaliatory actions identified by targets included job termination, constructive discharge (when an employee is compelled to resign due to the circumstances), economic loss, verbal and physical aggression, and further sexual harassment (Wendt and Slonaker, 2002). More specifically, there are both formal, official and informal, unofficial types of retaliation (Cortina and Magley, 2003; De Maria and Jan, 1997; Lewis and Vandekerckhove, 2018). Formal, official types of retaliation include adverse actions that negatively affect a target's job or career (*Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006)); (Cortina and Magley, 2003). Informal, unofficial types of retaliation include antisocial behaviors that result in verbal and nonverbal harm (Cortina and Magley, 2003).[4] In instances of informal adverse actions, targets have shared experiences ranging from yelling, name calling, bullying, and incivility after filing a report of gender harassment (Jacoby, 2022). Formal adverse actions in academia include failed grades, preventing someone from participating in educational activities, removing academic credit or authorship, withholding career-based opportunities and influencing others in positions of power to withhold opportunities, and damaging someone's reputation (Department of Education, 2022; Harvard Business School, 2022; Jha, 2021). Some targets have also described having research data withheld from them as a response to reports of sexual harassment (Jha, 2021).

The Negative Consequences of Retaliation

Retaliation in any form can result in a range of negative consequences for those who experience it. The above examples show how individuals can experience limitations in the opportunities to contribute and advance in their career, and they may feel as if their only response to the adversity is to leave the field.

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[3] Multiple circuit courts of appeals have held that the standard laid out in *Burlington Northern* for Title VII retaliation claims likewise applies to Title IX retaliation claims; however, the Supreme Court has not squarely addressed this question.

[4] The study gathered data about the types of retaliation that were self-reported in complaints filed with a state agency; the agency frequently did not find enough evidence to conclude that retaliation occurred.

Research also shows that whistleblowers, who are similar to those who expose or report sexual harassment[5] can experience retaliation or "second order sexual harassment" (Vidu et al., 2022), which in turn can result in increased anxiety and depression (Soeken and Soeken, 1986) and post-traumatic stress disorder (Bjørkelo et al., 2008). They can also endure severe social stress that can be more destructive than "all other work-related stressors combined" (Lewis and Vandekerckhove, 2018). Beyond the psychological decline that can result from retaliation, targets have also expressed long-lasting, time-consuming consequences. For example, targets who had research data withheld by their harasser as a consequence of reporting sexual harassment described a delay in their research progress because they had to wait at least a year before acquiring data (Jha, 2021). Even for those who remain in their positions, the impact of retaliation can also make individuals become less productive, less committed to their organization, and less satisfied with their jobs (Wendt and Slonaker, 2002).

Furthermore, if institutions fail to respond—or respond ineffectively—to reports of sexual harassment or retaliation, targets may experience institutional betrayal, which has proven more harmful to the target than the original incident(s) (Smith and Freyd, 2014). For example, a graduate student who reports sexual harassment to the university and then is cut out of lab work may feel betrayed by the school for failing to protect them from punishment. When an institution allows such retaliation to take place, the target's sense of trust and dependency in the institution to maintain their safety and act on their behalf is negatively impacted. Importantly, the negative effects of institutional betrayal can be exacerbated further due to individual's varying identities—for instance, sexual minority students report higher levels of institutional betrayal than sexual majority students, which further predicts elevated levels of post-traumatic symptoms (Smith et al., 2016).

Retaliation can also have consequences for the broader community and the institution. For example, observers of retaliation can be affected by the low morale in the department or unit stemming from retaliation (Wendt and Slonaker, 2002). The organizational climate can then shift and result in organizational cynicism and feelings of institutional betrayal, especially by those most frequently targeted by sexual harassment, including women; Black people, Indigenous people, and other people of color; those with sexual orientation and gender identity expression that differs from the majority population; and graduate students (Brubaker, 2018; Tillman et al., 2010). In addition, research shows that the resulting negative effects of retaliation (e.g., low productivity, turnover, absenteeism) can also result in a significant financial burden for institutions (Wendt and Slonaker, 2002). Furthermore, the risk of retaliation without accountability can create an environment in which sexual harassment is more likely to occur and can encourage the perception of organizational tolerance of sexual harassment (NASEM, 2018).

The Fear of Retaliation

Another consequence of retaliation is the *fear* of retaliation. Specifically, individuals who know of retaliatory actions against those who report sexual harassment—and the resulting negative consequences of those

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[5] Since there is minimal research demonstrating the negative consequences of retaliation experienced by those who specifically reported sexual harassment, we draw from literature on "whistleblowers" to help illustrate the negative consequences that can be experienced by those whistleblowers who experience retaliation. Similar to how those who report sexual harassment aim to expose related harm, "whistleblowers" are generally defined by the research as individuals who expose various legal and policy violations and misconduct, like abuse, fraud, misuse of public funds, and more.

actions on the targets—feel fearful of becoming retaliatory targets themselves. Not only can this fearfulness affect their mental health, but also it can deter them from reporting sexual harassment (Cortina and Berdahl, 2008; Cortina and Magley, 2003; NASEM, 2018). Both targets and bystanders have been deterred from reporting sexual harassment because of fear that doing so could have negative consequences for their jobs and/or careers (Mangan, 2022; Stripling, 2022). One of the likely results of this issue is that countless concerns about both sexual harassment and retaliation never reach those in positions of authority who are responsible for responding to reports of sexual harassment and retaliatory action within an institution, let alone the investigative state and federal agencies. Indeed, research shows that there are, on average, about nine unreported instances of retaliation for every one report (Wendt and Slonaker, 2002). A secondary but equally important effect of this fear is that it also prevents targets of sexual harassment from accessing supportive services, even those that are confidential and available within their institutions (Cortina and Magley, 2003; NASEM, 2018). Institutions often have procedures in place for connecting those who file complaints of sexual harassment or retaliation with various supportive resources (in some cases, providing such services is required by law). However, if an individual never files a complaint due to fear of retaliation, the individual may never be aware of or connected with these helpful services.

Prevalence of Retaliation

Both federal data and research studies show that retaliation is common in workplaces and academic settings, even though these data are likely undercounting the scope of the problem because, as mentioned earlier, many incidents of retaliation are not formally reported. A high frequency of employees formally reporting retaliation related to various forms of harm—not just sexual harassment—conducted by their employers is shown in data collected by the U.S. Equal Employment Opportunity Commission (EEOC), a federal agency responsible for enforcing Title VII of the Civil Rights Act of 1964 (42 U.S.C. §§20002–2000e17, *as amended*) and other federal laws prohibiting discrimination and retaliation against employees.[6] In the past 20 years, the number of retaliation complaints received by the EEOC has nearly doubled, growing from 19,694 in FY 1999 to 34,332 in FY 2021 (Equal Employment Opportunity Commission, 2021b). Looking at the past 5 years of the EEOC's publicly available data, complaints alleging retaliation made up an increasing portion of the total complaints it received, growing from 45.9 percent in FY 2015 to 56.0 percent in FY 2021 (Equal Employment Opportunity Commission, 2021a). Retaliation complaints are likewise frequently received by the Office of Civil Rights (OCR) of the Department of Education. OCR is responsible for enforcing Title IX, which prohibits discrimination based on sex as well as retaliation in education programs and activities.[7] OCR additionally enforces Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.), which prohibits discrimination based on race, color, and national origin in education programs and activities as well as related retaliation. In FY 2022, OCR received 9,498 Title IX complaints of which 508 (5 percent) involved claims of retaliation. During the same time frame, OCR received 3,329 Title VI complaints, of which 802 (24 percent) involved claims of retaliation (Office for Civil Rights, 2023). Research studies have similarly shown a high prevalence of retaliation, including Wendt and Slonaker's 15-year study (2002), which revealed that in 98 percent of cases where women reported sexual harassment, they experienced various forms of retaliation, including job termination.

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[6] The EEOC responds to allegations of employment discrimination based on race, religion, sex, disability, age, and various other protected categories.

[7] Employees of academic institutions typically can report harassment, discrimination, and/or retaliation to either the EEOC or OCR, or both.

How Does the Law Address Retaliation?

Retaliation, including retaliatory conduct that results because an individual complains of or participates in the investigation of sex-based or sexual misconduct, harassment, or discrimination, is prohibited by numerous federal and state laws and regulations. While it is beyond the scope of this paper to describe all such laws and their many nuances and distinctions, the general legal framework for understanding retaliation typically involves three components: (1) an adverse action taken against a person (2) *because* (or "as a direct consequence of") (3) that person engaged in a protected activity[8] by opposing sexual harassment or participating in an investigation of sexual harassment. In other words, for the purposes of this paper, retaliation occurs when an individual opposes sexual harassment by a harasser (i.e., reporting, objecting) or participates in an investigation of sexual harassment, and the harasser (or another person who was aware of the protected activity) responds by taking an adverse action against the individual (i.e., termination, failing grade) (see Figure 1).
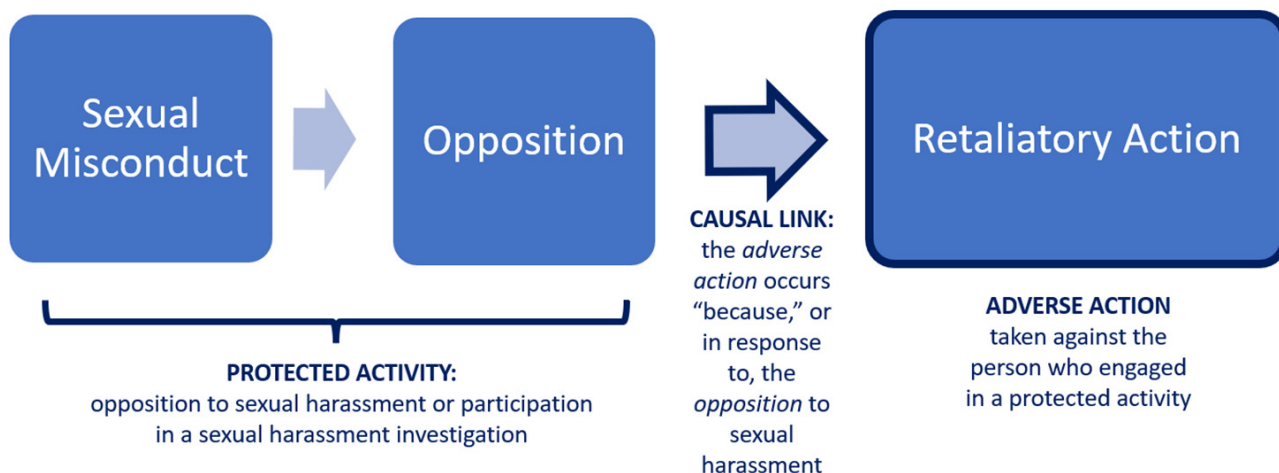
FIGURE 1 Sequence of the three components of retaliation.

The legal analysis of retaliation requires taking a step back in the timeline of events to consider whether there was (1) opposition to sexual misconduct (or participation in an investigation of sexual misconduct); (2) an adverse action that followed that opposition or participation; and (3) a causal link between the adverse action and that opposition or participation. In the sections below we show how this framework can be challenged in a claim of retaliation.

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[8] Equal Employment Opportunity (EEO) laws aim to protect job applicants and employees from punishment as a consequence of asserting their rights to "be free from employment discrimination including harassment." The assertion of such rights is referred to as engaging in "protected activities" and includes refusing to follow orders that could result in discrimination, intervening to protect others from sexual harassment, and reporting an incident of sexual harassment (see U.S. Equal Employment Opportunity Commission web page at https://www.eeoc.gov/retaliation).

The three components of retaliation are further discussed by considering the following three questions commonly asked in legal proceedings:[9, 10]

- *Did the person reporting retaliation engage in protected activity?*
  The most obvious and easily recognized form of protected activity is the filing of a formal complaint regarding sex-based or sexual misconduct, harassment, or discrimination with one's employer/ institution, an external agency, or a court. However, protected activity can also include informally raising such complaints to one's employer/institution (including verbally rather than in writing), threatening to file a complaint or bring a lawsuit, refusing to engage in activities reasonably believed to be discriminatory or harassing, resisting sexual advances, participating in an investigation of sexual misconduct, and other forms of opposition to conduct that is prohibited by anti-discrimination and anti-harassment laws. Complaints of sexual harassment expressed (formally or informally) by third-party witnesses/observers also constitute protected activity, as does a bystander's intervention in ongoing sexual harassment experienced by another.

- *Did the person reporting retaliation experience an adverse action after engaging in protected activity?*
  While the various federal and state laws may differ to some extent, and case law is ever evolving, an adverse action will generally involve a significant negative consequence for the reporter and would not include an action that has minimal negative impact.[11]

- *Was the adverse action taken because of the protected activity of the person reporting retaliation?*
  The causal link is often the key piece in determining whether retaliation occurred. Frequently, the protected activity and adverse action are not disputed, but the accused denies a connection between the two. While many factors can be weighed to assess a causal link, key considerations often include whether the accused had knowledge of the reporter's protected activity at the time the adverse action was taken;[12] the temporal proximity between the protected activity and the adverse action; whether the person accused of retaliation had taken or started to take similar adverse actions against the reporter prior to the protected activity; and whether the person accused of retaliation had taken similar adverse actions against individuals who had not engaged in the protected activity. Assuming the person accused of retaliation provides a nonretaliatory reason for the adverse action, the veracity of that reason will be scrutinized based on the relevant circumstances.

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[9] There is an extensive body of case law interpreting retaliation under Title VII of the Civil Rights Act of 1964, as amended, a federal statute that protects employees from discrimination and harassment on the basis of race, color, religion, national origin, and sex (42 U.S.C. § 2000e et seq., 1964). Courts interpreting Title IX of the Education Amendments Act and various state laws prohibiting retaliation have often referred to and/or relied upon Title VII case law.

[10] The legal framework holds institutions—not individuals—accountable for retaliation. To comply, colleges and universities generally have translated these legal prohibitions that hold their institution accountable into institutional policies that apply to the institution's individual community members.

[11] For example, Title VII case law requires a "materially adverse action," a phrase that has been interpreted broadly and is not limited solely to discriminatory actions that affect the terms and conditions of employment, as in, for example, *Burlington N. & Santa Fe Railway Co. v. White*, 126 S. Ct. 2405, 2414–15, 2006, p. 16. While many laws do not provide examples of adverse actions, the 2020 amendments to Title IX's regulations describe a specific type of prohibited retaliatory conduct in which—for the purpose of interfering with a right or privilege secured by Title IX—an individual is charged with misconduct arising out of the same facts or circumstances as a report or complaint of sexual harassment or sex discrimination, but which does not involve sexual harassment or sex discrimination.

[12] Some courts have considered this its own required factor, rather than a consideration when assessing a causal link.

While it is common to envision the accused individual retaliating against the person who accused them, this is not always the case. Any person who takes an adverse action against an individual because that individual engaged in protected activity may be found to have engaged in retaliation. For example, consider a dean who resents a student for publicly accusing their faculty member of sexual harassment—if the dean limits the student's academic opportunities because of the student's protected activity, the dean has engaged in retaliation even if the accused faculty member is completely uninvolved.

How Do Legal Protections and Institutional Policies Fall Short in Addressing Retaliation in Academia?

Despite the federal and state protections that make retaliation unlawful, it can be hard to address for a variety of reasons. The frequent lack of conclusive evidence, or "smoking guns," and the various forms of retaliation make it hard to prove that an adverse action was triggered by someone opposing sexual harassment, reporting sexual harassment, or participating in an investigation of sexual harassment (Wendt and Slonaker, 2002). For example, the 2002 study by Wendt and Slonaker showed that 50 percent of 129 retaliation claims filed with a state agency resulted in a decision of "no probable cause," meaning there was not enough evidence to prove the claims. Only 4 percent of the claims led to a finding of "probable cause," meaning there was sufficient evidence of retaliation.[13]

Below are three examples of specific challenges in supporting a claim of retaliation. Each example includes a discussion of the challenge and illustrates that challenge's place in the sequence of events that make up retaliation (see Figures 2, 3, and 4).

- *Challenge #1:* **When there is insufficient evidence to show that the person reporting retaliation engaged in protected activity** (see Figure 2). Retaliation prohibitions were created to encourage individuals to report concerns of sexual harassment without fear of retribution, thereby enabling institutions to learn of and address such unlawful behavior. In order to garner this protection from retaliation, however, courts have held that the reporting individual must have a "reasonable belief" that the complained-of conduct is, in fact, unlawful. While the individual does not need to prove that the conduct they have opposed is actually unlawful, the required reasonable belief of unlawfulness can be problematic because legal definitions of sexual harassment vary, may differ substantially from common understanding, and case law is always evolving. For example, under Title VII, a complainant must show that sexual harassment was sufficiently "severe or pervasive" in order to make it actionable (*Meritor Savings Bank v. Vinson*, 477 U.S. 57, 67 (1986)), but under Title IX, the 2020 regulations require evidence that the harassment is sufficiently "severe, pervasive, and objectively offensive" in order to be actionable (34 C.F.R. § 106.30(a)(2)). So, if an individual reports a colleague who gave them an uncomfortable "compliment" about their physical appearance, such conduct (on its own) might not satisfy the requirement because it would not reasonably meet the high legal standard for sexual harassment to be "severe or pervasive," let alone "severe and pervasive and objectively offensive." This means that if the offending colleague began treating the individual poorly following a stern warning from the human resources department, such

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[13] For the remaining claims, 27 percent resulted in a settlement, 17 percent were withdrawn by the reporter prior to any outcome (likely to proceed to litigation), and 2 percent were closed due to lack of jurisdiction (Wendt and Slonaker, 2002).

conduct likely would not be considered retaliation under the law, even if it was a direct result of the individual's reporting of inappropriate sex-based conduct. Moreover, even though legal standards and institutional policies often set a high bar for sexual harassment, institutions often train and encourage students and employees to report any concerning sexual or sex-based conduct, with the hope of intervening to prevent recurrence of behavior that, while inappropriate, may not meet the legal definition of harassment. This effort, however well-intentioned, encourages individuals to report behavior that is unlikely to be sanctioned, which in turn leaves the reporting individual unprotected from retaliation. For instance, if a bystander observes the uncomfortable compliment described above and implements intervention tactics trained and encouraged by the institution, that bystander could experience retaliation, yet may not have legal protection from retaliatory actions.
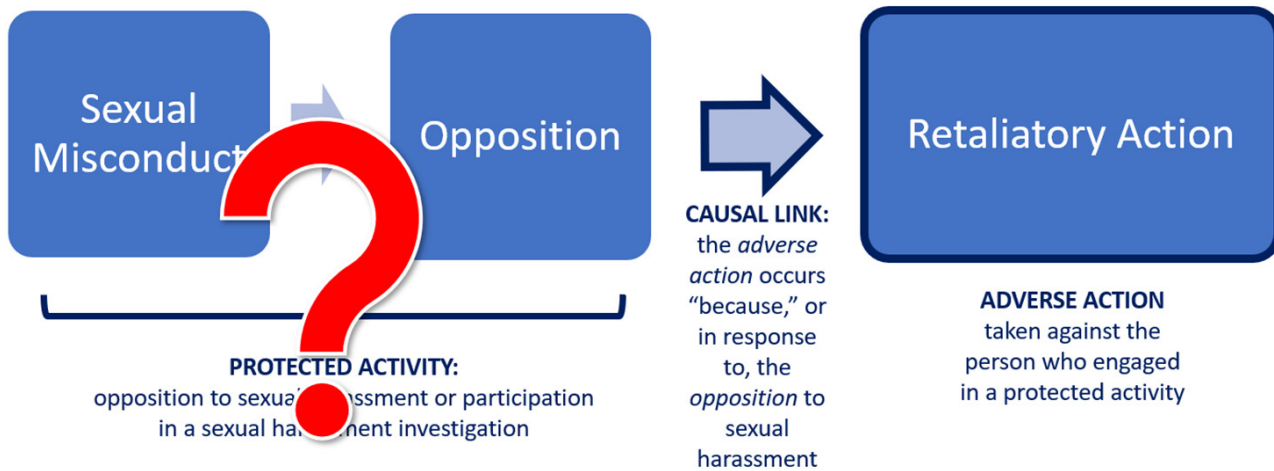
FIGURE 2 Challenge #1: The first challenge to proving retaliation claims: insufficient evidence of sexual misconduct under the law; ergo, an individual's opposition is not considered a protected activity.

- *Challenge #2:* **When the adverse action is subject to debate** (see Figure 3). As an added complication, in some situations, even the adverse action could be disputed. For instance, a supervisor who retaliates by denying his employee's promotion might claim that the employee never experienced an adverse action because the employee remained in their same position with the same pay, benefits, and responsibilities. If the anticipated promotion was solely a verbal understanding, successfully arguing that the employee experienced any concrete negative consequence could be particularly difficult. Similarly, if an employee or trainee is subject to an annual contract, it could be much harder for them to prove that the decision not to renew (which was never guaranteed in the first place) was retaliatory rather than for a business reason corresponding to the agreed-upon contract. Finally, given the highly specialized work and academic environments often found in higher education institutions, it may be particularly difficult to explain to a court or agency why a seemingly minor decision to non-academics (such as a move from first author to second author of a journal article) constitutes an adverse action, as well as to refute misleading counterarguments raised to oppose the retaliation claim.
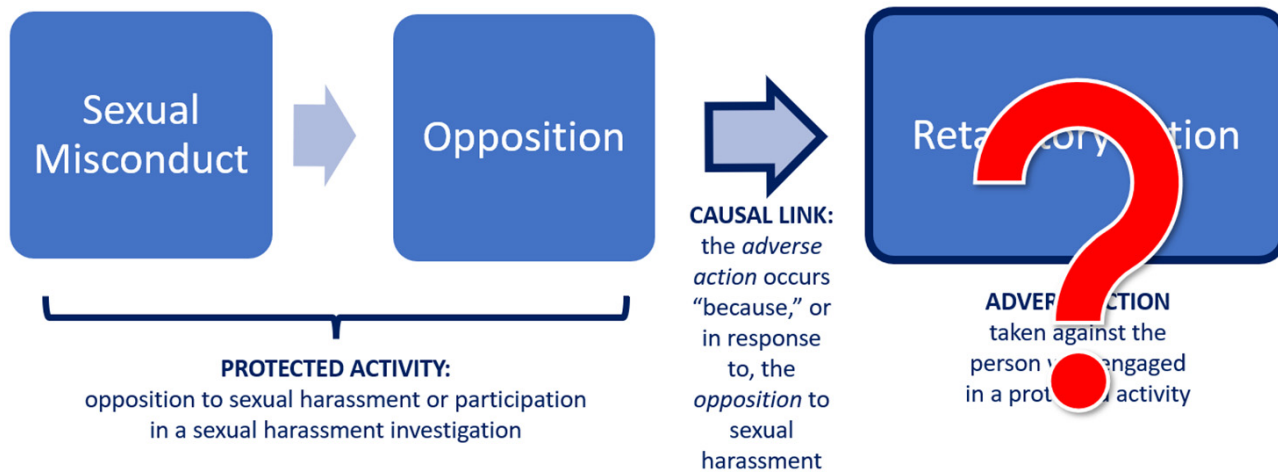
FIGURE 3 Challenge #2: The second challenge to proving retaliation claims: recognizing an adverse action as retaliation under the broader legal standards.

- *Challenge #3:* **When there is insufficient evidence to prove the causal link between an adverse action and a protected activity** (see Figure 4). The fact that a person engages in a protected activity and subsequently experiences an adverse action is not enough to show that retaliation occurred. Rather, the reporter must establish that the adverse action happened *because of* the protected activity, rather than for some other, legitimate reason. Not surprisingly, however, a person (or employer) who engages in a retaliatory act typically will not advertise, let alone document, their retaliatory motive. This means that the person claiming retaliation rarely will have direct evidence, such as a supervisor's e-mail stating, "*I heard you complained about me to the Title IX Office, so I'll be rescinding your promotion.*" Instead, as mentioned in Challenge #2, above, the retaliating individual may provide a nonretaliatory explanation for the adverse action that sounds fully plausible in the circumstances: "*Unfortunately, due to unexpected budget demands, your promotion is going to be put on hold for now*." In this situation, even if it is undisputed that an individual engaged in protected activity (complaining to the Title IX office about the supervisor), experienced an adverse action (withdrawal of a promised promotion), and identified a possible causal link between the two (the supervisor's knowledge of the complaint), the individual *still* must refute any nonretaliatory explanation offered to deny the claim. This burden can be doubly challenging when the power dynamic favors the alleged retaliator, as it often does (Kleinman and Thomas, 2023). In this example, the subordinate employee may not have access to budget information or the perspective to understand whether there were unexpected demands on the budget. In short, the difficulty is in proving that an action was done in response to a protected activity rather than for a legitimate managerial, business, or academic reason that just happened to coincide temporally with the protected activity.[14]

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[14] On the other hand, managers and supervisors may believe themselves to be in a difficult position if an employee or student they oversee has raised a harassment or discrimination complaint against them. Even if the accused individual has a legitimate reason to discipline the employee who complained about them, they may hesitate to do so for fear of facing additional claims of retaliation.
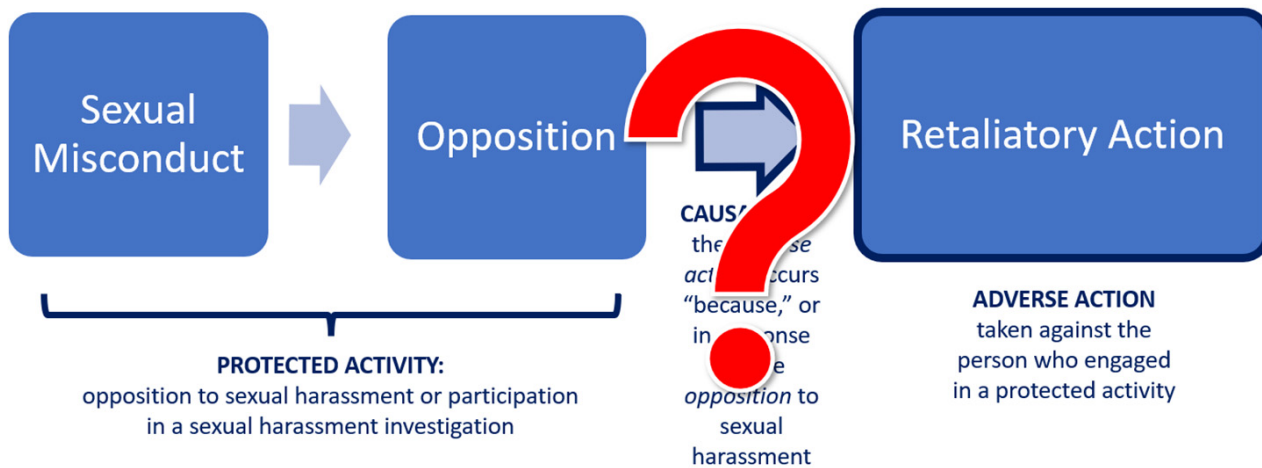
FIGURE 4 Challenge #3: The third challenge to proving retaliation claims: proving the retaliatory intent of the adverse action, or (alternatively) disproving the managerial, business, or academic reason provided for the adverse action.

While the legal framework for analyzing retaliation can be effective in straightforward circumstances, its nuances and shortcomings (discussed below) may effectively deny protection to those who have raised concerns in good faith, thereby discouraging, rather than encouraging, opposition to and or reporting of sexual harassment. With this in mind, institutional policies that are merely compliant with the law—and are subsequently subjected to the same limitations of the legal framework—may not adequately address the lived experiences and fears of retaliation in academic institutions.

Examples of Retaliation in Higher Education

To better address retaliation (and fear of retaliation) in academia, institutional administrators usually have striven to understand how it manifests in an environment (Equal Employment Opportunity Commission, 2015) and how it fits into the three-component sequence—protected activity, causal link, retaliatory action. This paper presents six hypothetical scenarios illustrating retaliation in academia and the challenges and obstacles that are a consequence of the narrow legal framework. These examples not only illustrate some of the many forms of retaliation in higher education, but also highlight gaps where the legal framework falls short in addressing them.

NO OPPOSITION

Hypothetical Scenario #1: Graduate Student *A* works in the same lab as Research Fellow *B*. Fellow *B* is the de facto supervisor when the principal investigator (PI) is traveling, which is frequent. Fellow *B* repeatedly makes sexual comments and jokes to Student *A* as well as other students in the lab. While other students laugh or respond in kind, Student *A* finds this conduct too childish to even acknowledge and opts to completely ignore all of it while focusing on the research. Student *A* never considers filing a complaint against Fellow *B*, in part due to Fellow *B*'s key role in the lab, but primarily due to Student *A*'s fear of a time-consuming distraction from the work. Unfortunately, Fellow *B* reacts to Student *A*'s indifferent attitude by suddenly leaving Student *A* off of online team chat channel discussions, group texts, and e-mail

announcements, as well as subtly implying to others that Student *A* is struggling in the lab. These actions create distance between Student *A* and the other lab members; without a support network or an involved PI, Student *A* begins to fall behind. Although Student *A* recognizes that Fellow *B* is favoring the students who "play along" with the sexual banter in the lab, Student *A* continues to withdraw and eventually leaves the lab with a master's degree instead of a Ph.D.

Hypothetical Scenario #1: Discussion: In this scenario, the graduate student neither filed a complaint about the fellow's sexual conduct nor explicitly opposed the conduct, instead carrying on with the work at hand. However, when Fellow *B* escalated the situation by isolating Student *A* for not "playing along," Student *A*'s work environment was significantly impacted. If Student *A* then decided to consult the institution's retaliation definition in its sexual misconduct policy, a typical compliance–based definition would provide no assurance of a solution under the policy. As Student *A* did not file a complaint, participate in the investigation of a complaint, or oppose sexual misconduct, there would be no "protected activity" to causally connect to subsequent adverse actions. Moreover, a typical anti–retaliation provision likely would not identify the isolating actions of the fellow as adverse actions.

NON-PROTECTED ACTIVITIES

Hypothetical Scenario #2: Principal Investigator (PI) *C* is notorious for making all graduate students work excessive hours, screaming at them for any perceived mistake, throwing pens and beakers, and making junior graduate students run personal errands. While most lab members agree that women sometimes get worse treatment than men, nobody in the lab avoids the demeaning and unhealthy conditions. A few students have discussed reporting this behavior, but they are hesitant to further upset PI *C* because the completion of their doctoral work requires the PI's guidance and assistance. They also think that any investigation could fail because other lab members would be too fearful to tell the truth.

Hypothetical Scenario #2: Discussion: While suspicion of gender discrepancy in the hypothetical scenario is valid, the bulk of the problematic conduct falls into the category of the "equal opportunity harasser"—someone who subjects various people to inappropriate conduct without regard to their protected identities. Federal and state laws prohibit retaliation against individuals who engage in protected activities related to sexual misconduct and discrimination/harassment based on protected identities (sex, race, religion, etc.), but these laws typically do not address more general bullying behavior. As a result, institutions may locate their retaliation prohibitions within policies that specifically prohibit sexual misconduct and discrimination and harassment. While this placement is logical for compliance purposes, such retaliation prohibitions generally do not provide protections for people who report or object to unacceptable or problematic conduct that falls outside the scope of sexual misconduct, discrimination, and harassment, because such reports/objections are not considered protected activity and therefore do not meet the threshold requirement for retaliation protection.

In situations where the same powerful person engages in both general bullying behavior and discriminatory/harassing conduct, however, the individuals subjected to this conduct may be discouraged from complaining if they believe that only part of the complaint would have retaliation protection.[15] Moreover, research suggests

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[15] Some institutions have policies that prohibit bullying or unprofessional behavior and contain their own anti–retaliation provisions.

these circumstances are not uncommon, because of the overlap between environments that tolerate uncivil behavior and those that tolerate sexual harassment (Lim and Cortina, 2005; NASEM, 2018). Nevertheless, gender harassment is shown to also occur in environments that endorse inappropriate conduct, bullying, disrespect, aggressive behavior, uncivil behavior,[16] and so forth (NASEM, 2018).

ADVERSE ACTION – PEER RETALIATION

Hypothetical Scenario #3: After months of trying to ignore the sexist comments and sexual "jokes" loudly exchanged between two lab members, Graduate Student *D* reports the conduct and an investigation ensues. During the investigation, lab work schedules are changed to prevent Student *D* and two lab members from being in the lab at the same time. The PI says nothing overt about the investigation, but regularly laments "disruptions" that are causing their work to fall behind. The other members of the lab become aware of the investigation because they have all been interviewed. They likewise express pointed frustration and actively avoid Student *D*, finding excuses to deny help that was previously common. Student *D* hears from friends in another lab that a peer wishes Student *D* would just leave because of having ruined the fun "vibe" in the lab.

Hypothetical Scenario #3: Discussion: Research has shown that certain members of university communities, particularly graduate students and some faculty working in smaller disciplines and/or departments, can experience retaliation from peers who may depend on collaborative research or future professional support (Flaherty, 2019). A single perpetrator of sexual misconduct, whether faculty or student peer, is frequently enabled by the shared values and like conduct of a larger group, be it a lab, program, or classroom (Cunningham et al., 2019). This enabling behavior can manifest in the members of the larger group expressing frustration at the perceived or actual effect of a complaint of sexual misconduct on their own work or environment, even if the complaint was not against them. While retaliatory conduct is often anticipated as an angry response from the accused person, the accused person is not the only one who can engage in retaliatory behavior, under both policy and law. If someone takes an adverse action against another person because that person engaged in protected activity, they can be found responsible for retaliation under an institution's policy even if they were not the subject of the accusation. The person subjected to this conduct, however, may not recognize the behavior of their disgruntled peers as retaliation, particularly if their institution defines retaliation narrowly in its policies. Likewise, the individuals engaging in the adverse conduct may not view their own conduct as retaliation.

ADVERSE ACTION – THROUGH PROFESSIONAL EVALUATION

Hypothetical Scenario #4: Graduate Student *E*, who has repeatedly experienced sexual harassment from Advisor *F*, turns to a Junior Faculty Member, *G*, in the same department, disclosing the harassment and asking for advice. Because this university requires all employees to report sexual misconduct, junior faculty member *G* dutifully conveys a detailed report of the alleged harassment to the Title IX coordinator, and subsequently is interviewed by an investigator. Fearful of Advisor *F*'s response, as *F* is also Faculty Member *G*'s senior colleague, Faculty Member *G* never discusses the case with colleagues and is never certain whether Advisor *F* is aware that Faculty Member *G* made the initial report. When Advisor *F* begins to openly undermine

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[16] In the NASEM 2018 report (p. 29), uncivil behavior, or *incivility*, is defined as "rude and insensitive behavior that shows a lack of regard for others (not necessarily related to sex or gender)."

Faculty Member *G*'s contributions in department meetings and in private (by opposing Faculty Member *G*'s application for a research leave the following semester), Faculty Member *G* suspects this is a form of punishment for speaking to the Title IX office but has no way to be sure. Faculty Member *G*, lacking evidence of the motivation behind Advisor *F*'s negative actions, does not file a complaint of retaliation but rather starts looking for a new position elsewhere.

Hypothetical Scenario #4: Discussion: Adverse actions against faculty and graduate students take a variety of forms, including negative assessments and denial of informal privileges. The higher education environment, which includes training and mentorship of both undergraduate and graduate students, as well as near-constant academic and/or professional evaluation, provides many opportunities for adverse actions that are directly punitive (bad grades or evaluations) as well as effective by omission (refusal of letters of recommendation, mediocre letters of recommendation, exclusion from formal and/or informal educational and professional activities). Retaliation against university faculty and graduate students can also include small but significant adverse actions, such as difficult teaching schedules, extra committee work, or exclusion from key committees or decisions. In an environment where status and advancement are frequently assessed through non- or low-monetary rewards (such as tenure and promotion, in-house awards and recognitions) and where career advancement depends heavily on support from individual faculty and/or administrators, the opportunities for retaliation are extremely varied and can be subtle.

ADVERSE ACTION – RETALIATION THROUGH COUNTERCLAIMS

Hypothetical Scenario #5: Researcher *H* is on a continuing faculty appointment and faces increasing gender harassment in work meetings from Co-PI *I*, particularly when they are alone in field research settings. When Researcher *H* brings this conduct to the attention of the department chair, the concerns are reported up to the equal opportunity office. However, the next day, Co-PI *I* files a complaint of discriminatory conduct with the equal opportunity office against Researcher *H* because of Co-PI *I*'s status as a racial minority facing discriminatory conduct. The university is obligated to respond to claims of both race-based discrimination and sexual harassment; thus, the resulting investigation will include both Researcher *H*'s allegations against the Co-PI *I* and Co-PI *I*'s subsequent claims against Researcher *H*. Rather than endure being investigated, Researcher *H* withdraws the complaint of sexual harassment against Co-PI *I* in hopes of salvaging a long-term position at the institution.

Hypothetical Scenario #5: Discussion: Retaliation may also take the form of counterclaims, such as investigations for research misconduct (Brown, 2018) or retaliation complaints (Bikales, 2020). Even counterclaims that are ultimately dismissed may have the intended effect, damaging the credibility of the original complaint, extending the procedural timeline for the original complaint, and/or tarnishing the reporter's professional reputation. Title IX and Title VII grant individuals the right to file good-faith complaints of sexual misconduct and other forms of discrimination and harassment, and require their institutions/employers to respond promptly to assess such claims. The fact that someone has been accused of misconduct does not eliminate or reduce their right to file a complaint, even against a person who has already accused them, nor does it eliminate the institution's/employer's obligation to respond. While counterclaims may be filed in bad faith as a form of retaliation, without clear evidence at the outset, a retaliatory motive may not be certain.

As a result, even if the timing raises suspicions, the reality is that some level of inquiry, and perhaps a full-blown investigation, may be needed to sort through the allegations, no matter who first raised a complaint.

ADVERSE ACTION – EXTRA-INSTITUTIONAL RETALIATION

Hypothetical Scenario #6: A tenured Researcher, *J*, from an R1 university attends a social function sponsored by their professional association and becomes subject to unwanted touching by a Senior Colleague, *K*, from another institution at the event. Researcher *J* promptly reported the incident to the association, which quietly banned Colleague *K* from attending association events for 1 year. Several years later, tenured Researcher *J* notes a pattern of unexplained negative events occurring beyond Researcher *J*'s university, including being removed from prestigious editorial boards, unexpected denials of grant opportunities, and at least one failed job application. Researcher *J* and others suspect that the highly respected Senior Colleague, *K*, is utilizing their many connections to cause these negative occurrences, but Researcher *J* sees no pathway to contest these activities. Inquiries with the Title IX office at both Researcher *J*'s university and Senior Colleague *K*'s university yield no results because the challenged actions are not within the control or investigative scope of either school. Ultimately, Researcher *J* leaves academia for a government research position.

Hypothetical Scenario #6: Discussion: Academia can be a small world within different fields, specialties, and academic/professional networks. Individuals understandably can be reluctant to report misconduct by someone at their institution because, notwithstanding anti-retaliation protections at their institution, they recognize that the potential for retaliatory action can occur beyond the institution and can have long-lasting professional and academic ramifications. A complaint of sexual harassment made in any venue can provoke retaliation through a different, separate venue, effectively disrupting an institution or organization's jurisdiction to address the conduct. Moreover, this retaliation can be extremely hard to pinpoint if it is enacted through informal networks or is shielded by peer review protections. First, reporters may fail to recognize that they have experienced extra-institutional retaliation because the absence of opportunities and connections may be less visible than more traditional (overt) retaliation. Second, a significant amount of time may have passed between the reporter's protected activity and the adverse action, which often decreases the likelihood that a causal connection between the two can be found. Third, the adverse action could occur after the reporter and/or the accused have moved on from the institution they were associated with when the misconduct was reported, potentially limiting an institution's ability to address reported retaliation under its own policy. Even if the institutional policy applies, misconduct that occurred entirely outside of the context of the institution can be much harder to investigate.

What Can Institutions Do About Retaliation in Higher Education?

As shown by the previous section's challenge examples and hypothetical scenarios, higher education institutions are not prepared to handle the variable and complex nature of retaliation, which can ultimately lead people to experience institutional betrayal and for hostile environments to persist (Smith and Freyd, 2014). Institutions are further hindered in response and prevention efforts when they limit themselves to the legal framework. However, by recognizing the limitations inherent in that framework, institutions have an opportunity to develop creative anti-retaliation strategies and solutions—by modifying and/or expanding their current policies and practices in ways that better serve their communities.

Strategies for Responding to Retaliation

Since the current sexual harassment laws hold institutions—not individuals—accountable for retaliation, higher education institutions have created policies that, while reflecting the legal framework, aim to hold the individuals in their community accountable. Even so, considering the legal limitations pointed out in this paper, and the reality that institutions often comply with, but do not go beyond, what is required by the law, their policies can also be limited in how individuals are held accountable for retaliation. However, in the same way that universities regularly regulate the behavior of community members through policies on conduct, domestic partnership, or computer use—which often set a higher bar than legal requirements—institutions can likewise broaden definitions of retaliation and set out procedures for preventing and responding to it, that better correspond to the university environment. In doing so, institutions can move beyond mere compliance by using their internal policies to broaden the definition of retaliation and thus aim to address the full range of lived experiences that exist in academia.[17] Building upon the legal definition of retaliation (an adverse action that results because of a protected activity) institutions have control to broaden definitions of what is considered an adverse action and what is categorized as a protected activity within the context of institutional policies. Some institutions may be wary of implementing broader policies out of fear of liability; however, it is common to utilize policies to establish higher expectations than those required by the law. Institutions should consult with their legal counsel when considering such policy changes and must ensure they can and will comply with their own stated policies.

The following suggestions present strategies that address components of the retaliation definition:

- **Broadening the definition for "adverse action."** Institutions can, through their own policies and procedures, broaden the types of negative actions considered retaliatory to include the types of actions described in this paper's hypothetical scenarios. While a large body of case law addresses adverse actions in the employment context, and especially under Title VII, there is far less precedent under Title IX and particularly under the August 2020 regulations.

  Courts interpreting Title IX have often looked to Title VII precedent for guidance and may continue to do so going forward. Title VII case law has adopted a broad understanding of the type of actions that

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[17] Institutions should continue to consider all applicable laws when creating policy.

constitute retaliatory actions, described as any action that "well might have dissuaded a reasonable worker from making or supporting a charge of discrimination." When this interpretation is extrapolated to the experience of a reasonable student or a reasonable trainee, both punitive adverse actions (such as grades or poor evaluations) and passive adverse actions (such as refusing recommendations and significant educational/professional opportunities) may be considered actions that would dissuade a reasonable student/trainee from making or supporting a charge of discrimination or harassment. While the legal interpretation of less significant retaliatory consequences is not as clear, institutions have discretion to define retaliatory adverse actions broadly, as long as they meet the minimum requirements of all applicable laws. In particular, if institutional policies include the Title VII language that addresses incidents where a reasonable worker is dissuaded from filing a complaint—and provide specific examples of conduct that could be considered retaliatory for both employees and students—institutions can more clearly define an otherwise nebulous concept.

- **Broadening the definition for "protected activity."** An anti-retaliation definition that encompasses a broader range of protected activities than could help expand and strengthen safeguards for reporters, thereby encouraging more individuals to report sexual harassment. Some individuals may believe, incorrectly, that retaliation protections are only available after someone has filed a written complaint with their institution. Creating a policy where anti-retaliation protections are shown to be more widely available—for example, in situations involving informal or extra-institutional reports of sexual harassment—demonstrates to potential reporters that the institution is serious about protecting individuals who come forward with concerns of harassment.

  For individuals who have concerns about general incivility, bullying, and sexual harassment, policies can include explanations of how such overlapping concerns will be addressed, including retaliation based on a report of such concerns. And although some institutions offer numerous types of retaliation and whistle-blowing protection when someone reports a potential policy violation or ethical concern, these protections may not be apparent solely from the institution's sexual misconduct policy. Additionally, institutions can explicitly define who is protected, including those who formally or informally report and bystanders who intervene. As institutions implement more and more prevention programs that include bystander intervention, they create a parallel need to include adequate protections for when interventions do occur. Thus, establishing a broader range of protected activities that also clearly protect bystanders who intervene could help further promote a culture of intervention and opposition to sexual harassment.

Notably, the broadening of these definitions may lead to more allegations of retaliation, but it does not change the institution's obligation to neutrally and consistently investigate such claims before determining whether the evidence supports the allegations.

Organizations that form part of broader academic networks, from universities to professional associations, research foundations, and scholarly journals, can also consider developing their own policies for recognizing retaliation that takes place across distinct academic venues. A growing list of federal research agencies and professional associations have already developed anti-harassment policies that require intra-organizational collaboration on complaints, and several universities have authorized "pass-the-harasser" policies that

require institutions to share documentation of sexual misconduct findings (Harton and Benya, 2022a, 2022b). Such policies might also include procedures requiring an organization to report formal investigations and/or findings to the university that employs the accused. Policies could also communicate an organization's commitment to cooperating with a university's investigation of retaliation complaints to the greatest extent allowed by law. Such policies, like university anti-retaliation policies already in place, can be regularly communicated to the organization's stakeholders, and provide opportunities for dialogue and training to support community members' knowledge of policies and access to the responsible administrators and supportive services.

In addition to developing and implementing broader institutional policies, it is important that institutions communicate their anti-retaliation policies to their community. Effective communication plans and increased transparency of an institution's anti-retaliation policies could help promote consistent messaging that the institution does not tolerate sexual harassment or retaliation, which is likely to increase trust and a perception that the environment is fair by those in the institution (Umphress and Thomas, 2022). Communicating plans for the broader range of adverse actions, protected activities, and the forms of support that an institution will provide in response to retaliation could help build awareness and understanding. Institutions can also publish positive statements that value opposition to sexual harassment and show the ways in which the institution supports and protects those who report or intervene in such activity.

Strategies for Preventing Retaliation

Preventing retaliation from occurring in the first place is another area needing more detailed attention from institutions. Indeed, even if they implement broader policies, communicate better responses, and find better ways to contend with adverse actions, the nuanced forms of retaliation could still creep through institutions' walls of protection. As countermeasures, institutions can develop strategies for equipping and preparing individuals and communities to successfully protect people from experiencing both obvious and subtle retaliation and for educating the community on recognizing retaliatory conduct. Such prevention efforts could create not only an environment that deters retaliation from occurring, but also space for acknowledging and addressing people's fear of retaliation.

One strategy for preventing retaliation, and addressing the fear of retaliation, is for institutions to create *individualized anti-retaliation plans* as part of their broader anti-retaliation policy (see Boxes 1-1 and 1-2). Such individualized anti-retaliation plans offer proactive measures to deter and prevent retaliation from taking place, serving as one of many supportive measures that could give an otherwise reluctant reporter relevant information and empower them to disclose sexual harassment and/or seek supportive services. The plans can also provide protections for individuals accused of misconduct, particularly while the complaint process is underway, by making arrangements to remove or distance them from decisions or situations that involve the reporter, thereby decreasing opportunities for retaliation or the appearance of retaliation to occur.

Given that higher education institutions already typically have a standard anti-retaliation policy, individualized anti-retaliation plans serve as another proactive resource in an institution's overall efforts to reduce harm and create environments that prevent sexual harassment. Specifically, an institution can demonstrate transparency and show support by (1) illustrating specific circumstances of retaliation; (2)

demonstrating how individualized anti-retaliation plans, in conjugation with the institution's broader anti-retaliation policy, can help address various forms of retaliation; and (3) regularly communicating these forms of action and response to the community.

BOX 1-1

Johns Hopkins University Anti-Retaliation Plans

Johns Hopkins University's (JHU's) Office of Institutional Equity provides anti-retaliation plans that seek to "proactively address an individual's specific concerns of retaliation, thereby giving the individual confidence to pursue their report while also deterring potential retaliation."[a] The institution offers individual anti-retaliation plans in recognition of the fact that the "broad policy prohibition of retaliation may be insufficient to fully reassure someone who fears the impact of specific retaliatory acts."

At JHU, an individualized anti-retaliation plan is initiated by the Office of Institutional Equity (OIE) when an individual who engaged in a protected activity shares concerns of retaliation. The OIE customizes a plan for each situation by inquiring about the individual's fears and concerns, consulting "with individuals who have insight into the responsibilities and interests of both parties," and exploring solutions to provide support, address the reporter's fears, and remove the risk of retaliation. The individualized anti-retaliation plans also consider the specific power dynamics and relationship of the reporter with the accused. For instance, if a faculty member engaged in protected activity and is concerned that a more senior faculty member may retaliate by preventing career advancement, an individualized plan can make accommodations to remove or limit the senior faculty member from having input in the individual's career growth and can give related responsibilities (performance evaluations, promotion acceptance, etc.) to someone else (Johns Hopkins University, 2023).

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[a] See https://oie.jhu.edu/Retaliation/Retaliation.

BOX 1-2

Developing Individualized Anti-Retaliation Plans

Using the JHU individualized anti-retaliation plan as a model, we present the following steps to help institutions adopt an approach for providing plans that encourage reporting of sexual misconduct and address fears of retaliation.

Explain the Concept

The first step is to ensure that a potential reporter knows that institutional anti-retaliation measures exist and understands how an individualized anti-retaliation plan can help them. Before they decide whether to pursue a complaint of misconduct, they can informally consult with an administrator in the office responsible for handling sexual harassment and retaliation issues. Once they understand that the institution takes their fear of retaliation seriously and can take measures to mitigate the chances of that occurring, they may feel more comfortable sharing their specific concerns.

Understand the Concerns and Players

To customize an effective anti-retaliation plan for a specific individual and circumstances, the administrators involved in developing the plan must understand the concerns of the reporter. Additionally, the plan should take the overall climate into consideration, including any anticipated concerns about or resistance to implementing the desired anti-retaliation measures that could come from the person accused of misconduct, university administrators, practitioners, and so forth. Because a reporter is acutely aware of their own environment and the power dynamics at play, the plan should also consider what actions they would recommend to prevent potential retaliation, and which individuals they believe should or could be involved to implement these actions. Importantly, the implications of any anti-retaliation measures must also be considered from the accused person's perspective, with due consideration for the fact that no determination of wrongdoing has been made and punitive consequences are not appropriate.

Collaboration and Coordination

Per JHU's model, "the development and implementation of a successful anti-retaliation plan requires collaboration and coordination with individuals who have insight into the responsibilities and interests of both parties" (Johns Hopkins University, 2021), as well as the authority to implement needed changes. Thus, after gathering information from the reporter, the next step is to consult with such officials, explain the situation to them, and determine the feasibility and logistics for instituting the proposed anti-retaliatory measures.

JHU's online anti-retaliation plans (John Hopkins University, 2023) provide the following possible scenarios and considerations for the development of anti-retaliation plans that address a reporter's concerns:

• **When a Student Accuses a Professor:** Preventing negative effects on a student's grades can be a retaliation concern. Alternative graders (e.g., a faculty member who is not involved in the course) can be used to check that the student's work has been fairly graded prior to grade release (Johns Hopkins University, 2023). For such a situation, the administrator likely would need to consult with the department or division chair to obtain buy-in for these changes.

- **When an Employee Accuses Their Supervisor:** Employers can adapt the line of supervision during an active investigation to include human resources professionals or a higher-level supervisor to prevent retaliation through work assignments, performance reviews, disciplinary action, and job opportunities (Johns Hopkins University, 2023). Here, involving human resources staff and senior management will be crucial to supporting both the employee and supervisor.

- **When a Junior Faculty Member Accuses a More Senior Faculty Member:** In this case, concerns may focus on retaliation that harms the junior faculty member's career progression. Limiting or separately verifying a senior faculty member's input into the junior faculty member's work evaluation and promotion decision making (e.g., contract renewals, promotion and tenure review, and performance reviews) may help to mitigate concerns (Johns Hopkins University, 2023). This may involve the department chair as well as other members of senior leadership and can present logistical challenges requiring creative solutions.

- **When a Graduate Student or Trainee Accuses Their Advisor or Principal Investigator:** A student's or trainee's dependence on their advisor for professional support (e.g., positive reference letters, approval of milestones/completion of studies) can create a large fear of retaliation that can be one of the most difficult to address (Johns Hopkins University, 2021). Devising anti-retaliation plans in these cases can involve oversight (e.g., having an unbiased individual review reference letters to check for fairness and appropriateness) or shifting the responsibility to others (e.g., finding other professors to serve as a reference; enabling the student/trainee to transfer to a new advisor/lab;[a] limiting the amount of direct contact/supervision by the accused advisor) (Johns Hopkins University, 2021). Developing and implementing such complicated plans may need to include the involvement of several faculty members and faculty leaders to facilitate.

Respect Privacy

Implementing the proposed anti-retaliatory measures involves collaborating with other members of the community or entities within the institution, as noted above; therefore, respecting the privacy of the involved parties, that is, the reporter and the accused, to the greatest extent possible protects them from extraneous fallout and inappropriate assumptions. In many cases, the individuals who help implement the plan do not need to know all of the details of the underlying allegations, and discretion will be appreciated by both parties so that no one oversteps their responsibilities. For example, a faculty member does not need to know the specific allegations between an accused teaching assistant and an undergraduate student reporter to ensure that the student is assigned to a different teaching assistant during the investigation. Most higher education institutions treat sexual misconduct allegations and investigations with discretion, and share information as necessary to investigate and address the conduct; there is generally no need to deviate from this practice when implementing anti-retaliation measures.

Proactive, Not Punitive

The plan administrators must make clear to all parties involved that the development and implementation of an anti-retaliation plan is not an assumption or determination that the accused person otherwise would have retaliated, or that they have engaged in wrongdoing. For the same reason, it is important to avoid implementing any punitive

or disciplinary measures against either party as part of the plan.[b] Rather, the purpose of the plan is to provide proactive intervention that supports both parties in protecting the reporter from potential retaliatory actions and protecting the accused from potential claims of retaliation.

Flexibility Is Key

Anti-retaliation plans can include short-term and longer-term measures, any of which can be complicated by an unexpected change or development in the complaint process. The reporter, the accused, and other involved individuals should all understand that they can bring requests for clarification or changes of the established anti-retaliation plan to the appropriate office at any time during the process.

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[a] The Massachusetts Institute of Technology provides a Guaranteed Transition Support Program that seeks to "ensure that there are options for students who are in research situations with unresolved conflict. These students can switch research supervisors without worry of financial burden, and our mutual goal is to mitigate retaliation." More information can be found here: https://oge.mit.edu/student-finances/financial-assistance-and-grants/guaranteed-transitional-support/.

[b] Title IX generally prohibits institutions from taking punitive action against an accused individual until and unless a finding of responsibility has been made.

Call for Action

While this paper attempts to initiate a conversation about effective anti-retaliation responses, starting with ways institutions can broaden their anti-retaliation policies and supplement those policies with individualized anti-retaliation plans, much work still needs to occur to address, respond to, and prevent retaliatory behavior. Academia still needs to understand how institutions can best respond to retaliation, what actions and responses are successful, what factors help prevent retaliation, and more. In particular, we believe an initial step includes additional research on any of the following questions:

- A person who fears retaliation may never report sexual harassment in the first place, and therefore may never be in a position to engage in an anti-retaliation plan. How does education about the existence of this mechanism affect the willingness of the target to initiate a conversation?

- How do institutions of higher education formulate, communicate, and execute policy prohibitions on retaliation for complaints of sexual harassment?

- What role do confidential resources, for example, health care providers, therapists, and ombuds play in helping targets of sexual harassment navigate and utilize anti-retaliation policies?

- What do university leaders understand as "retaliation," particularly through their experiences with managing complaints, coaching by university counsel, and any trainings they receive? Does faculty governance play a role in defining and highlighting retaliation in academic settings?

- What are promising practices and strategies for addressing, responding to, and preventing retaliation?

- How can institutions properly evaluate strategies for responding to and preventing retaliation?

- How can institutions properly evaluate the effectiveness of their current anti-retaliation policies, plans, and responses?

- What kinds of anti-retaliation policies and procedures would center and address how retaliation is experienced by the most marginalized individuals in higher education, such as women and men of color, persons with disabilities, and those with sexual orientation and gender identity expression that differs from the majority population?

Ultimately, as the 2018 National Academies report *Sexual Harassment of Women* recommends, academic institutions should provide support to individuals who are targets of sexual harassment by developing approaches to prevent them from experiencing or fearing retaliation. Some institutions are taking important steps to develop and implement new anti-retaliation policies with broader definitions and clearer communication plans. These institutions are prioritizing anti-retaliation prevention efforts by including

individualized anti-retaliation plans or other innovative efforts in their procedures. We applaud these important efforts to move beyond legal compliance.

As institutions create, develop, and implement anti-retaliation policies and practices, we encourage them to also evaluate their response and prevention efforts. Regardless of changes that could affect the legal framework (e.g., anticipated changes to Title IX regulations), this paper aims to illustrate the complexity and severity of retaliation and offer general strategies for navigating this important issue in the academic environment. Furthermore, we hope institutions and leaders will build on this work in light of the variability of the legal framework. Finally, we hope this paper inspires institutions to take action to effectively respond to and prevent retaliation, which, in turn, can help create a climate and culture in academia that tolerates neither sexual harassment nor the opposition to sexual harassment.

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Liz Hutchison's, Ph.D., professional trajectory has been deeply shaped by the political and economic context of twentieth-century Latin America, particularly U.S. intervention and the spread of authoritarian regimes. Concerns about social justice, democracy, and human rights have driven her engagement with Chilean history, as well as the study of labor, gender, and sexuality in 20th-century Latin America. In addition to University of New Mexico (UNM), where she has worked since 1998, Hutchison has held Fulbright teaching fellowships at the Universidad Nacional del Centro de la Provincia de Buenos Aires (2019) and the Universitat Romiro I Virgili, Tarragona, Spain (2005), as well as visiting positions at the Instituto de Desarollo Económico y Social, Argentina (2012), the Instituto de Estudios de la Mujer at the Universidad de Granada, Spain (2006), and the Pontificia Universidad Catolica de Chile (1999). She advises History and Latin American Studies graduate students who work on Chile, Argentina, and other Latin American countries on topics ranging from LGBTQ, human rights, feminist, and indigenous movements to histories of reproduction and disability in twentieth-century Latin America. Since 2014, Hutchison has worked with Dr. Kimberly Gauderman on "Practicing Asylum," a project to build a comprehensive network of expert witnesses available to testify on behalf of Latin American victims of domestic violence, LGBT discrimination, and mother-child detention. Co-founder of Faculty for a Sexual Assault-Free Environment at UNM (Faculty SAFE), Hutchison works to promote changes in policy, strengthen support and advocacy, and advance research on campus sexual violence, both at UNM and nationally. Since 2020, she has served as Associate Vice President for Equity and Inclusion, developing enhanced support to faculty and staff who experience bullying, discrimination, and sexual harassment.

Cara Tuttle, J.D., has served as Director of the Vanderbilt University Project Safe Center since its founding in 2014. Tuttle previously served as the Associate Director for Student Accountability, Community Standards, and Academic Integrity at Vanderbilt University and as Director of Programs for the Women's Center at Northwestern University. Tuttle holds a J.D. from Vanderbilt University Law School, master of arts in women's and gender studies from the University of Louisville, and her bachelor of science in political science from Ball State University, where she graduated summa cum laude. Tuttle provides institutional advocacy on aspects of University response systems and processes involving sexual violence and represents the University on the AAU Advisory Board on Sexual Harassment and Gender Discrimination and the National Academies Action Collaborative on Preventing Sexual Harassment in Higher Education. Tuttle is the chair of the Provost's Sexual Misconduct Prevention Committee and the University's ROTC Officer Education Sexual Assault Prevention Committee. Tuttle previously served as co-chair of the University's Women's Advancement and Equity (WAVE) Council. Tuttle serves as a Senior Lecturer in the College of Arts and Science within the department of Gender and Sexuality Studies, for which she teaches the Seminar on Gender and Violence. Recently, Tuttle co-authored *Preventing Sexual Harassment and Reducing Harm by Addressing Abuses of Power in Higher Education Institutions* for the National Academies of Sciences, Engineering, and Medicine.

Acknowledgments

Suggested citation: Boyd, L., Hutchison, E., and Tuttle, C. 2023. *Preventing and Addressing Retaliation Resulting from Sexual Harassment in Academia.* Washington, DC: The National Academies Press. https://doi.org/10.17226/27362.

For more information about the Action Collaborative, see
https://www.nationalacademies.org/our-work/action-collaborative-on-preventing-sexual-harassment-in-higher-education.

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Prevention, Program Assessment, and Partnerships

Training and Certification Course

ATIXA
Association of Title IX Administrators

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Any advice or opinion provided during this training, either privately or to the entire group, is **never** to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

Introduction

The primary focus of this training is to introduce practitioners to prevention fundamentals, as well as opportunities to leverage assessment work and community partnerships to enhance program efficacy.

Practitioners will explore the challenges to prevention work, including engaging in robust and actionable data analysis, and collaborating with key stakeholders.

Our goal is to provide practitioners with specific prevention methodologies, holistic program assessment practices, and comprehensive partnership approaches to consider applying in their unique educational settings.

Content Advisory

The content and discussion in this training will necessarily engage with sex- and gender-based harassment, discrimination, and violence and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

Diverse Vocabulary

- This course reaches diverse settings in K-12 schools/districts and higher education
  - We may say "school" or "campus" or "institution;" we aspire to be inclusive

- Prevention field often uses terms differently than Title IX regulations/policy
  - Language preference may shift, relative to the "hat" you are wearing and role
    - "Victim," or "survivor," or "person who experienced harm" may replace Complainant
    - "Perpetrator," "offender," or "person who has caused harm" may replace Respondent

- Language and framing used for prevention work is often influenced by region, culture, political landscape, and specific school or institutional values

- Title IX team members should reflect diverse vocabulary, but when presenting prevention content need to be aware that it should be neutral and unbiased, or it could be used against the school or institution in court

Source: Possibility Seeds, 2023. *A Gender-Based and Sexual Violence Community Risk Assessment Tool for Post-Secondary Institutions*, pg. 10.

Prevention and Training

Prevention Education Framework

Provides treatment and longer-term remedies when harm has occurred — **Tertiary**

Targets a problem that already exists; often immediately after injury has occurred — **Secondary**

Aims to prevent the harm before it occurs — **Primary**
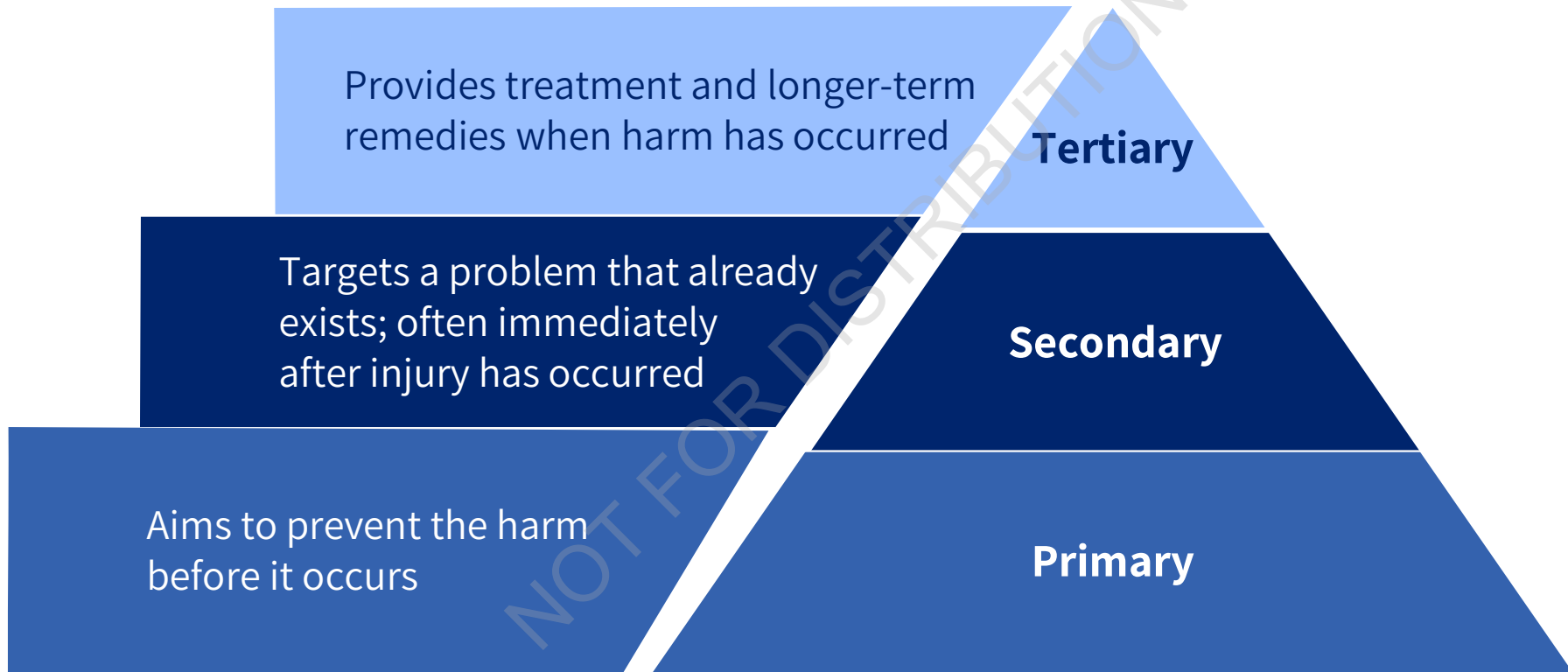
Source: Baumann L.C., Karel A. (2013) Prevention: Primary, Secondary, Tertiary. In: Gellman M.D., Turner J.R. (eds) Encyclopedia of Behavioral Medicine. Springer, New York, NY.

Prevention Education vs. Training

Training is distinct from prevention education, but can support prevention goals

Prevention Education

- Foundational concepts
- Recognizing harmful behavior
- Avoiding engaging in harmful behavior
- Skills and actions

Policy & Process Education/Training

- Prohibited behaviors
- Reporting options
- Response options
- Resources

Training for Title IX Roles

- Foundational knowledge
- Responsibilities
- Skill building
- School/Institutional process and policy

Sources of Prevention Education and Training Requirements

Title IX & Title VII
Apply to Recipients of federal funds and employers

VAWA Sec. 304
Applies to higher education institutions

Athletic Conferences
Applies to member institutions

State Laws
May apply to K-12 and/or higher education

Governing/Accrediting Bodies
May apply to K-12 or higher education

Insurance and/or Grant Requirements
May apply to K-12 or higher education

Comprehensive Prevention Education & Training Program

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Intersection of Title IX and Prevention

Title IX and Equity

- Title IX is a sex and gender equity law

- Equity refers to the understanding that not all individuals have access to the same resources and opportunities

  - Equity focuses on providing support and resources to reduce disparities in access to the education program

  - Title IX seeks to remedy inequities created by sex and gender discrimination

- Prevention and training help establish and maintain equitable environments

- Equity requires ongoing investment to build training capacity and a continuous improvement mindset

Title IX: Scope

Title IX		
Sex Discrimination	**Sex-Based Harassment**	
Inequitable Treatment	Quid Pro Quo	Domestic Violence
Exclusion from Participation	Hostile Environment	Stalking
	Sexual Assault	Retaliation
	Dating Violence	

Title IX Coordinator's Role in Prevention

- Title IX compliance requires schools/institutions to Stop, **Prevent**, and Remedy instances of sex discrimination and sex-based harassment

- Prevention should be collaborative, community-wide, and include the Title IX team

- The Title IX Coordinator (TIXC) should not assume primary responsibility for leading prevention efforts, rather they should:
    - **Educate** stakeholders and school/institutional leadership on the school's prevention obligations
    - **Collaborate** with other stakeholders to plan, implement, and assess
    - **Oversee** prevention compliance recordkeeping and reporting

Title IX Regulatory Requirements

Stop

Prevent

Remedy

Title IX regulations require training the Title IX Team:

- Title IX Coordinator (TIXC)
- Investigators
- Decision-makers (including appeals)
- Informal Resolution Facilitators

Community Notification Requirement

Title IX requires Recipients provide notice to:

- Applicants for admission and employment
- Students
- Parents/Legal guardians (K-12)
- Employees
- Unions/Collective bargaining groups

Notice must include:

- TIXC's name and contact information
- Nondiscrimination policy statement and where to find the policy
- Inquiry contact for TIXC and U.S. Department of Education's Office for Civil Rights
- School/Institution Title IX Resolution procedures including:
  - How to file a report
  - How the school/institution will respond

Employee Training Requirements

- **All employees upon hiring, change in role, and annually on:**
  - School/District obligation to address sex discrimination
  - Scope of conduct that constitutes sex discrimination
  - Reporting and information sharing requirements
- **Training must be completed, not just made available**
- May be in-person, online/virtual, asynchronous, and conducted by internal or external trainer(s)

VAWA Section 304 Training and Prevention Education Requirements

VAWA Section 304

- VAWA Section 304 also imposed training requirements
  - Applies to **higher education**; for both students and employees
  - Amended Clery Act, originally passed in 1990
  - Includes behavior beyond sex- or gender-based harassment (ex. Stalking)
- **Requires programming and education**
  - Sexual assault, dating violence, domestic violence, and stalking ("The Big 4")
  - Primary prevention programs
  - Ongoing prevention and awareness programming and campaigns
  - Risk factors, protective factors, and risk reduction
- Emphasizes programming that focuses on:
  - Changing behavior and social norms; increasing understanding and skills

VAWA:
Educational Programs and Campaigns

Annual Security Report (ASR) must include descriptions of:

- Educational programs and campaigns to promote awareness of dating violence, domestic violence, sexual assault, and stalking

- Primary prevention and awareness programs for all incoming students and new employees

- Ongoing prevention and awareness campaigns for students and employees

Programming should include information on **risk reduction** and must not be presented in a manner that encourages victim blaming

VAWA: Ongoing Educational Programs and Campaigns Guidance

- Tailored to each institution

- Focused on increasing awareness or understanding

- Culturally relevant

- Inclusive of diverse communities and identities

- Sustainable

- Responsive to community needs

- Informed by research or assessed for value, effectiveness, or outcome

VAWA: Employee Prevention Education

- Institutions must train new and current employees to promote awareness of the "Big 4"

- VAWA provides broad guidelines and definitions to assist institutions in developing training, but does not detail specific requirements

- Consider:
  - Annual employee training to increase effectiveness
  - Partnering with human resources to determine modality, timing, and completion tracking

Gaining Employee Buy-In

- Leverage institutional data to tailor training content

- Improve skills in recognizing and referring concerns

- Refer to prevention and training in faculty/staff handbooks and policies

- Train supervisors and support their prevention and training efforts

- Encourage senior leadership to model prevention, culture of care, and community standards

- Feature influential faculty and staff in education and training

VAWA:
Educational Programs and Campaigns

"Incoming Students"

"New Employees"

- First-year students
- Transfer/visiting students
- Student-athletes
- International students
- Graduate students
- Professional students
- Online students

- Full-time
- Part-time/Adjunct
- Faculty – all levels
- Staff
- Administrators
- Union and non-union
- Student employees:
  - RAs, TAs, GAs

VAWA: Additional Guidance in Clery Handbook

- 2016 Clery Handbook includes a chapter of detailed guidance on VAWA's education requirements
  - Rescinded and replaced with the Clery Act Appendix in 2020
  - U.S. Dept of Education has promised a new Handbook, with no date announced
- ATIXA recommends referencing the 2016 Handbook for now, it includes:
  - Helpful examples on prevention and programming requirements
  - Practical tips on the required elements of prevention and awareness education

The Handbook for Campus Safety and Security Reporting 2016 Edition
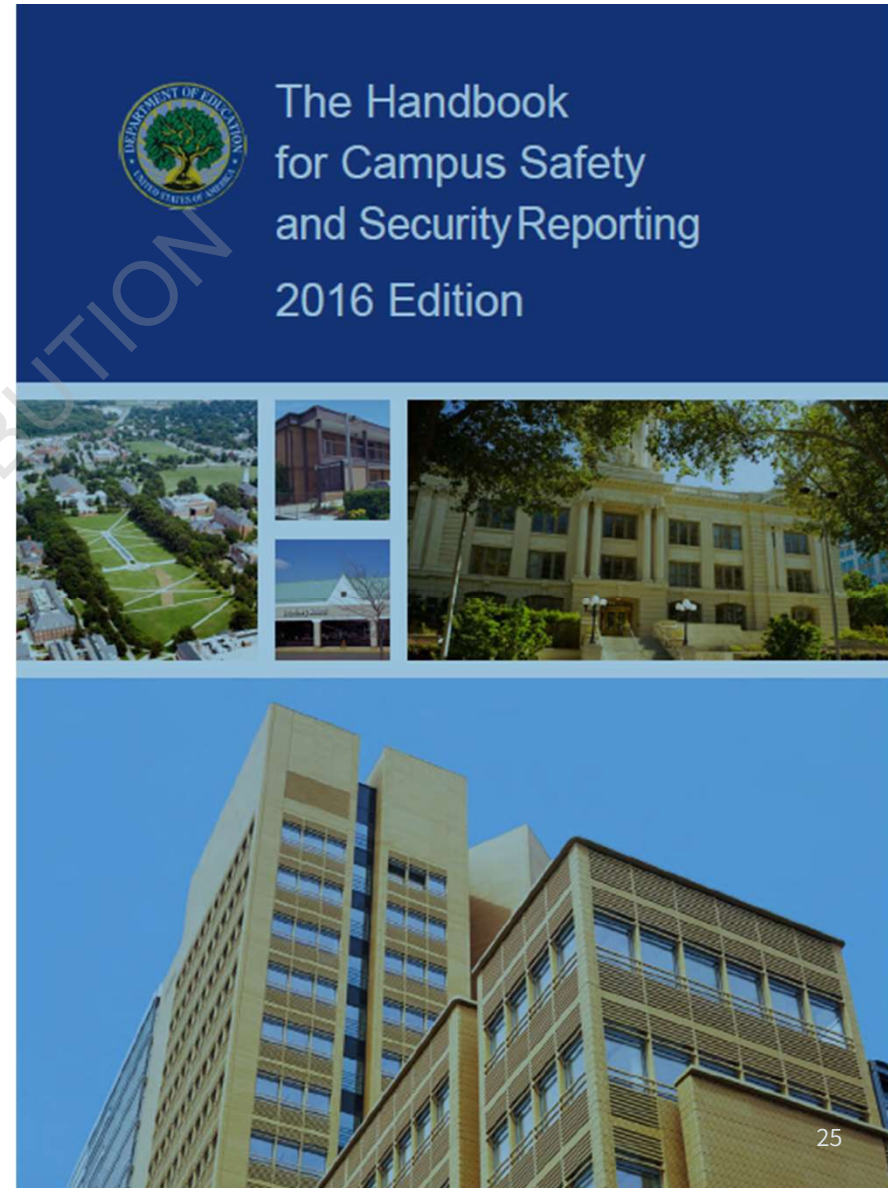
2022 VAWA Reauthorization

- Recognized other forms of IPV
  - **Added "economic abuse" and "technological abuse"**
  - Does not require changes to Title IX policy definitions

- Increased support in underserved communities, including funding for:
  - Survivor-centered, community-based restorative practices
  - Culturally specific services
  - Services for rural communities

- **Enhanced prevention and response in key areas:**
  - Expanded prevention education for students in higher education
  - Trauma-informed, victim-centered training for law enforcement
  - Improved training for sexual assault forensic examiners

2022 VAWA Reauthorization

- **Climate survey requirement every two years**
  - Metrics related to student experiences with sexual misconduct, institutional policies, educational awareness and prevention programs, and institutional response
  - Institutions must use the standardized online survey tool but may add additional questions
    - Dept of Ed has not yet released the tool
    - Requirement goes into effect one year from date of release
- **Grant funding available** to develop, maintain, and enhance prevention and awareness programming

Preview: VAWA Climate Survey

- **Survey tool must be:**
  - Be fair and unbiased
  - Be scientifically valid and reliable
  - Notify the participants that anonymized results may be published
  - Accessible for individuals with disabilities

- **Questions will include:**
  - Demographics
  - Incidence and prevalence of sex-based harassment, sexual assault, dating and domestic violence, and stalking
  - Students' awareness of policies and procedures

- Institutions can add additional questions

Climate Surveys

Title IX-Based Climate Survey Objectives

- Focused on sex discrimination, sex-based harassment, sexual assault, dating and domestic violence, and stalking
  - Assess **prevalence** of sex discrimination and sex-based harassment
  - Evaluate awareness of Title IX **policies**, **resources**, and reporting **procedures**
  - Gauge the **perception of** school/campus safety and the effectiveness of district/institutional responses
  - Identify **gaps** in services, support, and education related to Title IX
  - Could lay a foundation/justification for **affirmative action** (though courts hostile)
- Assists TIXC with **monitoring** the education program for barriers to reporting

Climate Survey Stages
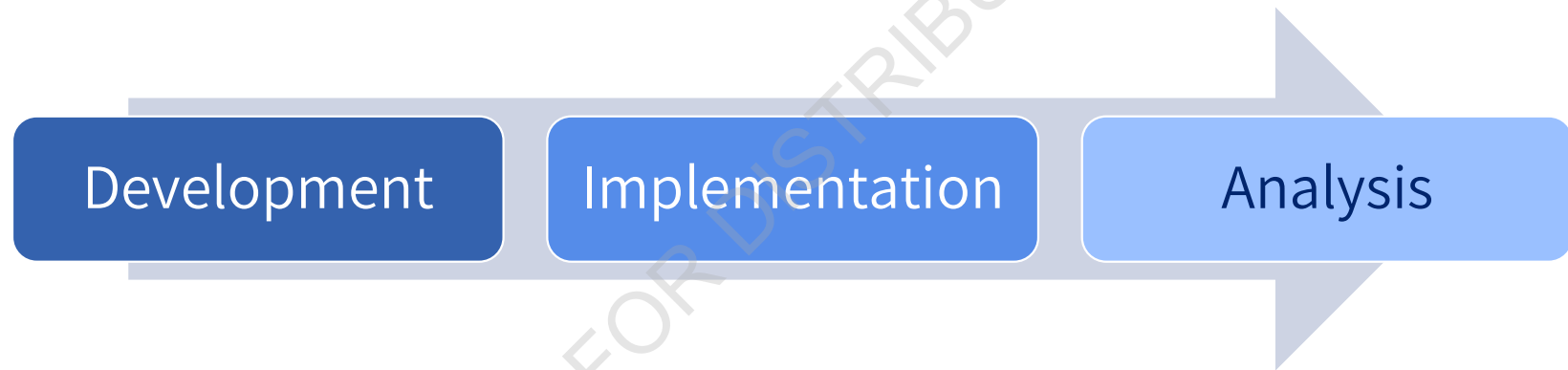
Climate Survey Development

Climate Survey development steps

- Designate a climate survey leader and committee of key stakeholders
  - Individual with survey design expertise (internal or external)
  - Key stakeholders to provide feedback prior to launch

- Identify clear goals and intended participants

- Adopt a clear methodology

- Plan for financial and human capital to support the development, implementation, analysis, and post-survey action plan

- Select a survey software to collect and help analyze data

Climate Survey Development

- Comply with internal approval process (e.g., IRB, legal counsel)

- Consider how the survey questions speak to all members of the survey population

- Contemplate survey access barriers and solutions for intended participants

- Develop, review, and revise questions

- Prepare a promotion plan that includes response goals

- Prepare for post-survey analysis and community share back

Design Guidelines

- Keep the survey to a reasonable length that can be completed in one sitting
  - 10-15 minutes is ideal
- Use simple questions that can be understood by all participants
- Focus on how the results will be reported
  - What is the purpose of this question?
  - What will we do with the information we learn from this question?
- Use a mixed model design to capture both qualitative and quantitative data
- Avoid tendency to "kitchen sink" the survey
- Be willing to use "Prefer not to answer" or "Not listed" as a response

Climate Survey Components

- **Demographic questions**
    - Provides the primary bases for analysis and comparison
    - Important to draft demographic data to maintain anonymity
- **Experience, Incidents, and Prevalence questions**
    - Nature, Type, Extent, and Location of incidents
- **Perception and Opinion**
    - Perceptions of Inclusion, Welcomeness, and Equity
    - Safety within educational environment
    - Peer attitudes toward sex-based harassment

Climate Survey Components

- **Awareness and Knowledge questions**
  - Evaluate how well individuals understand existing policy and procedures
  - Programming and prevention efforts

- **Reporting, Response, and Resources**
  - Experiences with reporting incidents and support received
  - Barriers to reporting
  - Knowledge of resources
  - Confidence in the school/institution's ability to address complaints

- **Feedback** on how the school/institution can improve its Title IX policies and support systems

Consent and Confidentiality

- How will the district/institution maintain the confidentiality of responses while adhering to its mandated reporting policies?
    - Consider outsourcing data analysis
    - Who has access to the raw data?
- Intro to the survey should provide a description of survey scope
- K-12 Schools/Districts
    - Be familiar with the Protection of Pupil Rights Amendment (PPRA)
- Provide informed consent prior to the start of the survey
    - For K-12, this will include sign off from the parent/guardian

Establishing Community Buy-In

- Identify key stakeholders and district/institutional influencers to assist in the development and promotion

- Create an inclusive promotion plan with individualized outreach to underserved populations and those groups that are known to underreport

- Be transparent about the goals, share back plan, and how information learned will be used to improve district/institutional safety and Title IX efforts

- Frame promotional materials as an opportunity for all voices and experiences to be heard

- Leverage district/institutional leaders and influencers to assist to encourage participation

- Consider participation incentives for students and employees

Climate Survey Implementation

- **Goal:** Attain the highest level of survey completion ("response rate") from intended participants

- Survey options:
  - Online survey tool (internally or externally hosted)
  - Pen and paper

- Develop a plan that includes a variety of options to maximize response rate

- Analyze response rates at specific intervals during the survey implementation period
  - Does the team need to revamp promotion efforts?
  - Can additional outreach take place?
  - Can additional incentives be provided?

Analyzing Climate Survey Results

- Leverage staff, administrators, and teacher/faculty assessment expertise

- Ask questions that may challenge the status quo

- Be wary of assumptions and bias

- Include data about all community members

- Identify populations or services that are not reflected in the data
  - Are there populations of the student body who are not reporting or not completing the climate survey?

- Benchmark data against previous years and other districts/institutions of similar size/population

Climate Survey Report

- Draft a comprehensive overview of the Climate Survey responses

- Compiling a report can feel onerous, some tips to help:
  - Create or follow a template
  - Assign sections to committee members to draft
  - Allocate sufficient time for writing and review

- Consider:
  - Accessible platform for sharing the climate survey results
  - Showcasing both qualitative and quantitative data
  - Sharing a "next steps" plan to address areas needing improvement

Action Planning

- Identify key stakeholders to advise and assist with post-survey action planning and implementation

- Committee action planning should consider:
    - How does the survey inform possible policy changes?
    - What barriers or perceptions of barriers exist in our practices?
    - What does the data tell us about our prevention efforts?
    - How is our work serving our underrepresented populations?
    - How can we better inform our community about response and support measures?

- Establish an ongoing assessment cycle (1, 3, or 5 years)

Leveraging Data

- Regularly consult with the data beyond the window of survey implementation to:
  - Build trust with internal and external community
  - Increase connection to prevention and training initiatives
  - Inform policies, practices, and Title IX response efforts
- Infuse climate survey implementation into an annual assessment plan for continuous improvement

K-12 Prevention and Training Considerations

K-12 Training Culture

- Existing culture of professional development, typically
  - Stems from multitude of federal and state laws and school/district policies
  - Leverage existing regular training to meet Title IX requirements and enhance employee-facing prevention education

Student Prevention Education

Opportunities

- Age-appropriate relationship skills
- Self-management skills
- Responsible decision-making
- Health/sex education
- Social Emotional Learning curricula
- Bullying prevention
- Child abuse/child sex abuse prevention
- Local School Wellness Policy requirements and initiatives
- Climate, health, and wellness surveys

Challenges and Considerations

- Political pressures and public scrutiny
- Surveys restrictions/permission (PPRA)
- Curriculum challenges
- Parent/community curriculum notification and inspection
- State law or district prohibitions on certain topics including diversity, inclusion, sexual orientation, sexuality, and gender

Comprehensive Prevention Education and Training

Scaffolded Approach to Prevention Education and Training

- Effective prevention education and training includes a scaffolded approach that exposes all community members to opportunities to achieve the following:

| Build Awareness | → | Build Knowledge | → | Develop Skills |

Follow-up Opt-in Options to
Discuss Systemic Prevention and Practice Interactive Skills

NB0   New slide

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Benefits of a Comprehensive Approach

- Notice of policies, procedures, and resources for all community members

- Awareness of behavioral/community expectations

- Understanding of mandatory reporting obligations

- Tools to prevent or intervene as appropriate

- Guidance on responding to disclosure, providing support, and seeking assistance

- Title IX Team visibility

- Barrier to reporting mitigation or elimination

Audiences

- **All employees**
  - Mandatory reporters
  - Confidential resources (either in-program or community-based)
- **All students**
  - General and special education, ESOL, student leaders
  - Graduate, transfer, professional, exchange, distance, and online
  - Dual-enrollment/early college
- **K-12 parents/guardians**

Audiences

Title IX Team	First Responders
■ Title IX Coordinator (TIXC)	■ Resident Assistants
■ Deputy Coordinators	■ Residence Hall Staff
■ School/Building Coordinators	■ Student Health employees/school nurses
■ Investigators	■ Counselors/Case Managers
■ Decision-Makers	■ Sexual assault response coordinators
■ Informal Resolution Facilitators	■ Hallway and recess monitors
■ Advisors	■ Public safety/police/SRO

Education and Training Considerations

Audience

Timing and Frequency

Modality and Accessibility

Tone Setting

Education and Training Considerations

Audience

- Age and development level
- Entry point
- Motivation
- Focus
- Role and relation to facilitator
- Point of view
- Potential bias
- Topic familiarity
- Context

Education and Training Considerations

Timing and Frequency

- Duration
- Frequency
- Competing priorities
- Role complexity

- Multiple roles
- Duplication
- Institutional needs
- Available resources

Education and Training Considerations

Modality and Accessibility

- In-person
- Virtual
- Hybrid
- Self-paced

- On-demand
- Language
- Accessibility

Education and Training Considerations

Tone Setting

- Hook
- Content advisory
- Agenda
- Available resources
- Environmental expectations

- Interaction expectations
- Preparation for pushback
- De-escalation techniques
- Effective facilitation

Community Education Topics

Fundamental Concepts	Skills and Actions
- Equity - Bias - Healthy relationships - Boundaries and consent - Intersectionality - Accountability and jurisdiction - Definitions and examples of sex discrimination and sexual harassment - Available resources and support - Title IX and school/institutional policies and resolution procedures	- Bystander Intervention - Duty to report (or) mandatory reporting - How to make a report - Trauma-informed response to disclosure - Supporting others (process or no process) - Identifying potential pitfalls for sex/gender-based discrimination in policies, practices, procedures, and environments

Prevention Methodologies

Prevention Education

> **Prevention education** means the practice of providing instruction on methods or activities that seek to **reduce** or **deter** specific or predictable problems, **protect** the current state of well-being, **encourage** individuals to protect their own health and the health of those in their community and **promote** desired outcomes or behaviors.

Source: Illinois Department of Public Health.

Discussion: Prevention in Practice

Commitment to Equity Continuum

Not Compliant

Compliant in
Policy

Compliant in
Policy and Practice

Desire to Move
Beyond Compliance

Support and Resources
Sustainably Allocated

Evidence of
Improvement

Prevention in Practice

"The drops of rain make a hole in the stone, not by violence, but by oft falling."
— Lucretius

Continuum of Sexual/Sex-Based Discrimination

Sexual Harassment

Objectifying, gender-focused jokes, sexual comments, bullying, and explicit pictures

Coercive behavior and inappropriate advances

Touching, pinching, and groping

Threats, blackmail, sexual bribery, and stalking (pre-attack)

Physical force, fondling, rape, IPV, and stalking (post-attack)

Sexual Assault

Sexual Abuse Continuum

- Sexist jokes

- Sexual objectification

- Jealousy

- Minimizing partner's feelings and needs regarding sex

- Criticizing partner sexually

- Unwanted touch*

- Withholding sex and affection

- Sexual labels like "whore" or "frigid"

- Persistently demanding sex*

- Forcing partner to commit humiliating sexual acts*

- Cheating

- Forcing partner to watch sexual acts with others*

- Demanding sex with threats*

- Forcing sex*

- Forcing sex with others*

- Forcing sex after beatings*

- Sadism*

*implied non-consent

Socio-Ecological Model

The Socio-Ecological Model presents a framework for better understanding violence and the effect of prevention strategies

- Considers four levels:
  - Individual
  - Interpersonal
  - Community
  - Society
- Complex interplay between them, which creates a range of risk factors for violence
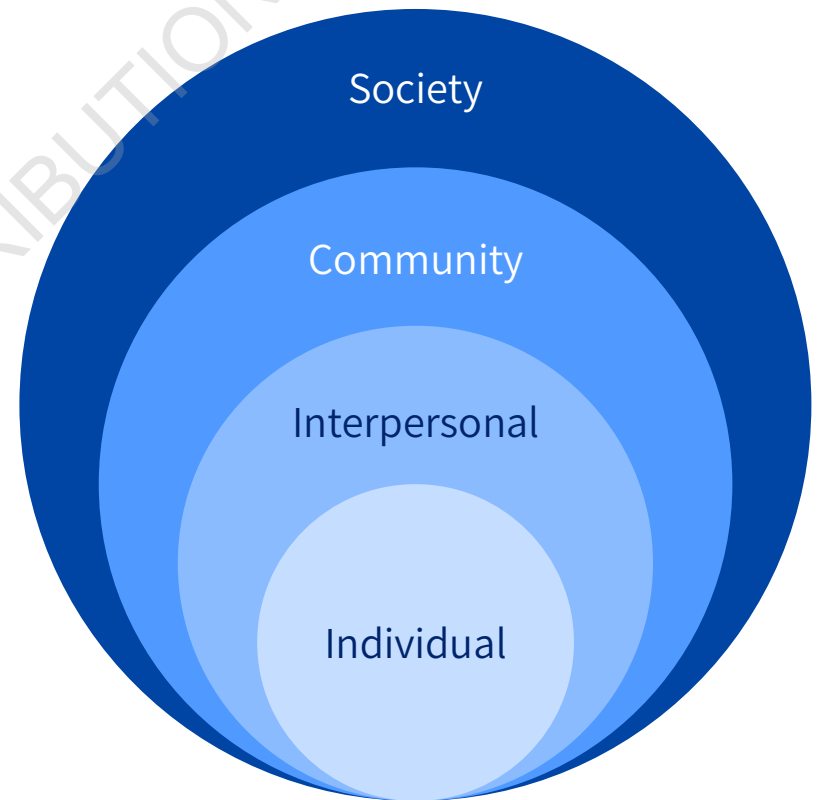
Establishing a Prevention Foundation

Integrated across disciplines

Holistic and addresses multiple areas of wellness

Empirically supported and/or able to demonstrate efficacy

Strategic in design and implementation

Multi-targeted

Prevention Methodology

- Effective prevention initiatives are individualized to the unique environment, culture, and needs of a community
  - Think global, national, and local at the same time
- Prevention efforts should be informed by:
  - **School/Institutional data**, including:
    - Climate surveys, assessments, end-of-year reports, etc.
    - Community demographics, SWOT Analysis
  - **Research** – from the field of education and beyond
  - **Theory** – systems of ideas that help explain phenomena

Spectrum of Prevention

Influencing policy and legislation

Fostering coalitions and networks

Changing internal practices and policies

Cohen L, Swift (1999). The spectrum of prevention: Developing a comprehensive approach to injury prevention. *Injury Prevention 5,*203-207.

Spectrum of Prevention

Educating providers and professionals

Promoting community education

Strengthening individual skills and knowledge

ATIXA's Principles of Prevention

ATIXA has distilled the most helpful insights from the research to eight principles (8 C's) for prevention work in educational environments:

◆ **Cogent**

◆ **Community-Wide**

◆ **Collaborative**

◆ **Consistent**

◆ **Compliant**

◆ **Comprehensive**

◆ **Centrally Planned**

◆ **Culturally Relevant**

Cogent

- Provides clear and coherent content and curriculum

- Relies on research, strong data, and proven methodologies

- Follows best practices

- Focuses on primary prevention as its foundation

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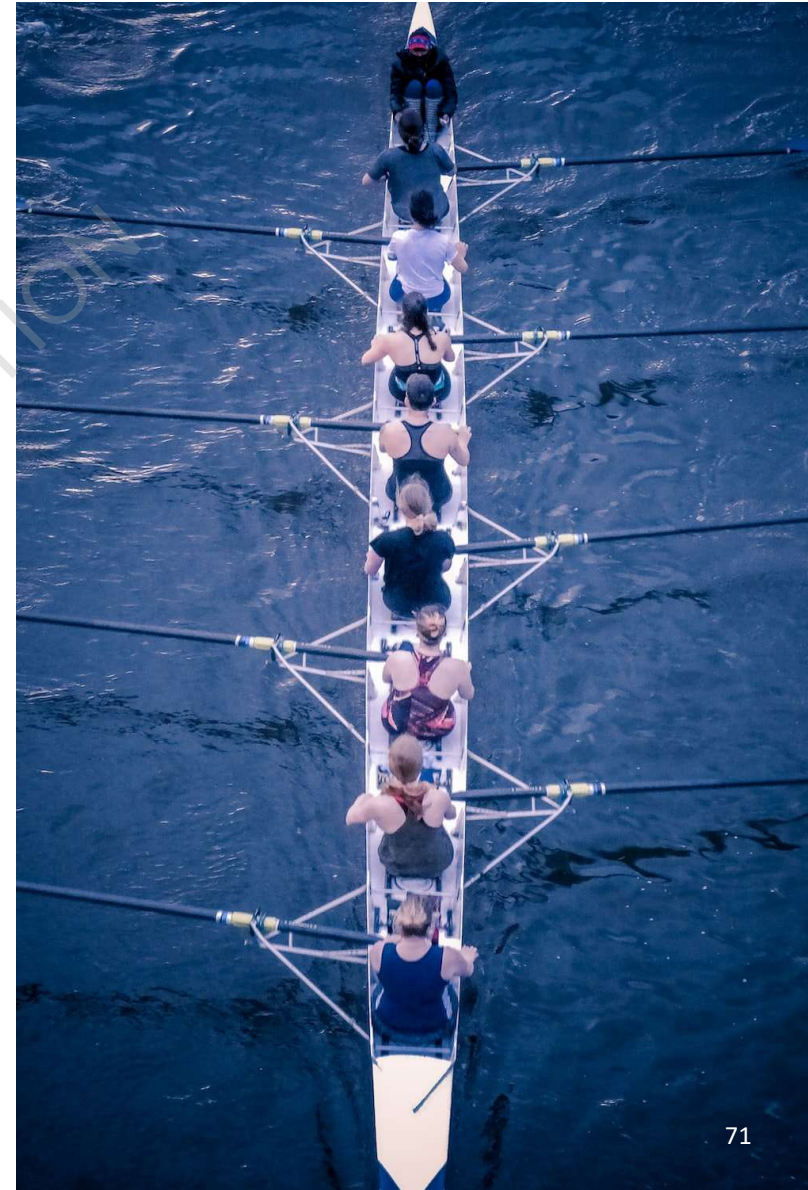
Community-Wide

- Aims to reach all students and employees

- Seeks to impact climate and culture with lasting systemic change

- Threads through all areas of the community; curricular, co-curricular, publications, hiring, etc.

- Intentionally inclusive of historically underserved groups

Mandated Programming

- Negative consequences: easier to create, administer, and enforce
  - Examples: registration hold, limited housing options, classroom free-time restriction

- Positive consequences: associated with increased engagement and learning
  - Examples: tickets to a popular concert, credit for an assignment, entry for a prize drawing, pizza with the principal

- Seek creative options to increase learning, improve safety, and address prevention goals

Collaborative

- Embrace opportunities to break down silos

- Leverage the expertise of others

- Engage multiple perspectives and identities

- Build connection points to underserved populations

- Involve students, teachers, academic departments, athletics, etc.

Consistent

- Offer continuous and visible engagement opportunities throughout the year

- Provide cohesive content with a targeted approach

- Demonstrate commitment to the mission, message, and community impact

- Reinforce a consistent message
  - Increases visibility
  - Fosters measurable outcomes
  - Displays level of commitment

Compliant

Efforts must:

- Comply with applicable laws, regulations, institutional/district policy, and guidance

- Fulfill obligations/duty of care to the community

Comprehensive

- Address a wide range of risk and protective factors

- Apply the full spectrum of prevention

- Provide individualized, scaffolded prevention to school/ institutional community members

- Infuse prevention into the environment and culture, including curriculum and academic programs
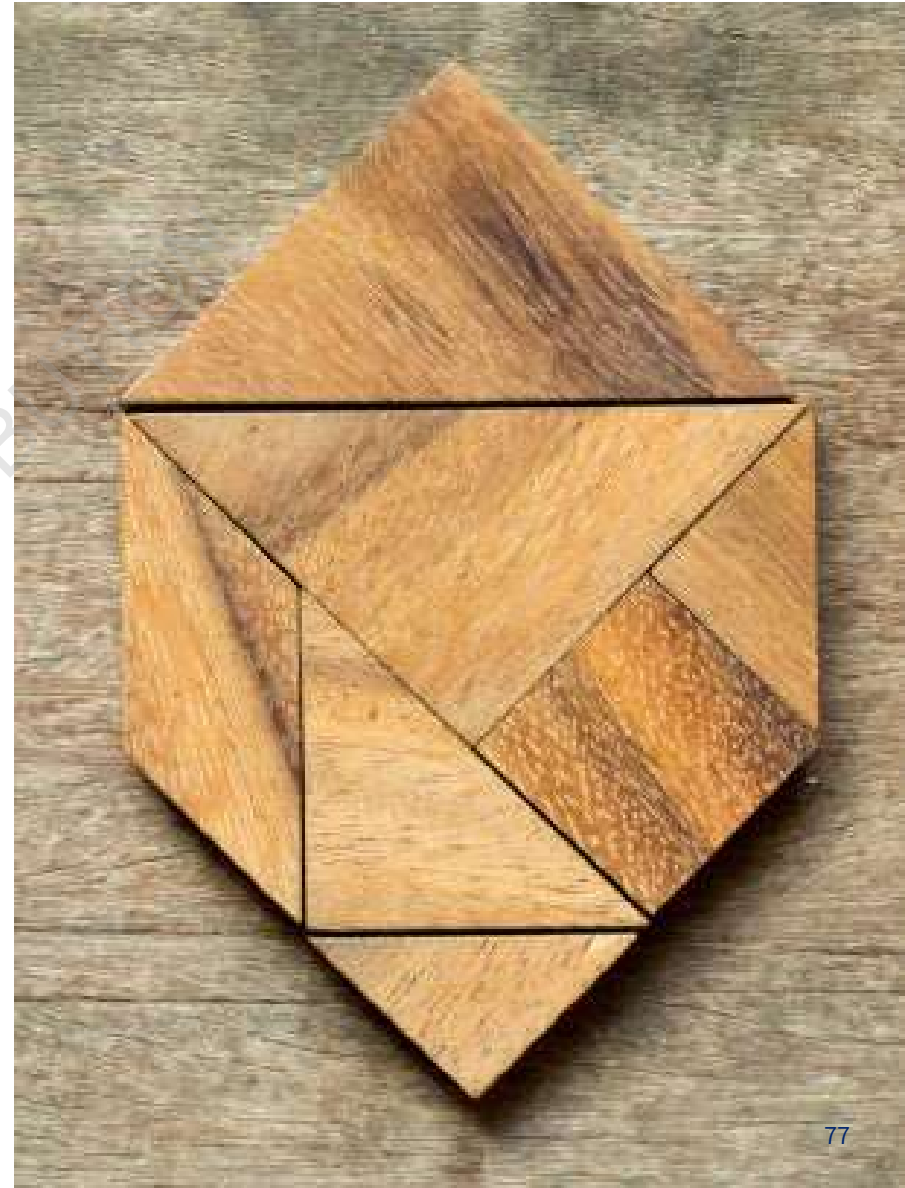
Centrally Planned
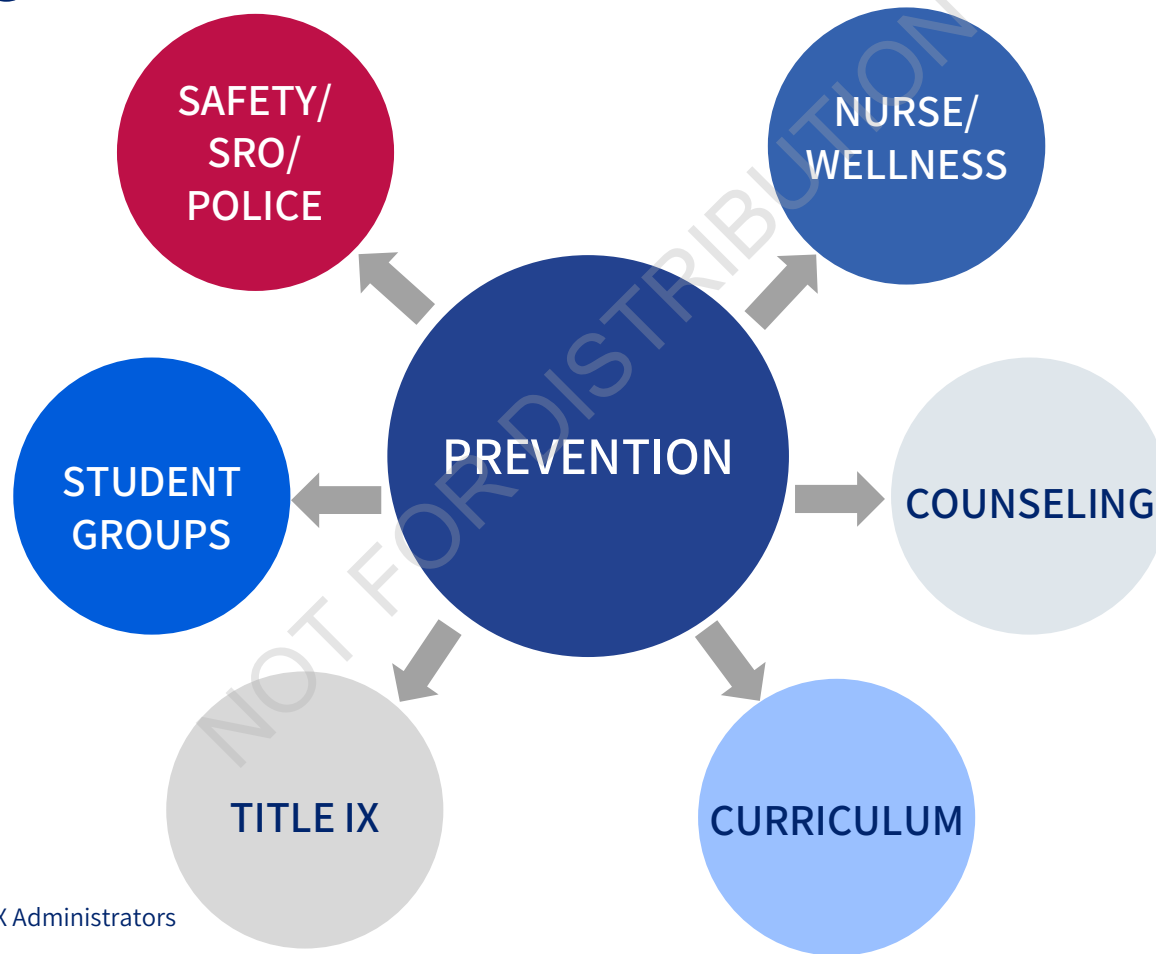
Culturally Relevant

- Prevention initiatives should use accessible language and delivery methods
    - Review and update terminology to remain current
    - Ensure modality/technology required to participate is accessible to all
    - Ask a small group of diverse stakeholders to review initiatives in advance
    - Alter publications, policies, and initiatives based on feedback
- Identify and address barriers to accessing education and/or services
- Prevention leaders should model cultural humility in design, delivery, and engagement of topics

Audience Considerations

- Prevention should meet the needs of **all** school/institutional community members

- Consider how messaging, outreach, and initiatives meet the needs of members of the community, including:
    - Male-identifying students and employees
    - Individuals from historically underserved groups and communities
    - Minors (including elementary, middle, and high school students)
    - International students
    - Individuals with disabilities, including neurodiversity
    - Adult learners
    - Faith-based
    - Individuals with previous experience of sexual/sex-based violence or discrimination

Trauma-Informed Approach

Understanding Trauma

- **Trauma** is exposure to an event or events that create a real or perceived threat to life, safety, sense of well-being, and bodily integrity
  - Acute, chronic, or complex
  - Neurological, biological, psychological, social, and emotional impacts
  - Developmental, intergenerational, historical, secondary, vicarious, or collective
- Responses to trauma can vary, depending on a variety of factors
- Provide all persons with support that makes prevention initiatives accessible, including to those who may have experienced trauma
- Consider offering opt-out/alternatives for those who find content triggering

Types of Trauma

TYPE	DEFINITION
Developmental	Early or ongoing exposure to trauma during infancy and childhood
Intergenerational	Psychological or emotional effects that can be experienced by people who live with trauma survivors; coping patterns can be passed from one generation to the next
Historical	Trauma experienced by a specific cultural group that has a history of being systematically oppressed
Secondary	Development of trauma-like response symptoms without witnessing or being directly involved in a traumatic event
Vicarious	Repeated exposure to other people's trauma
Collective	Psychological reactions to a traumatic event that affect an entire society

Trauma Responses

FIGHT	FLIGHT	FREEZE	FAWN/FRIEND	FLOP
Control	Competence	Circumvent	Conform	Collapse
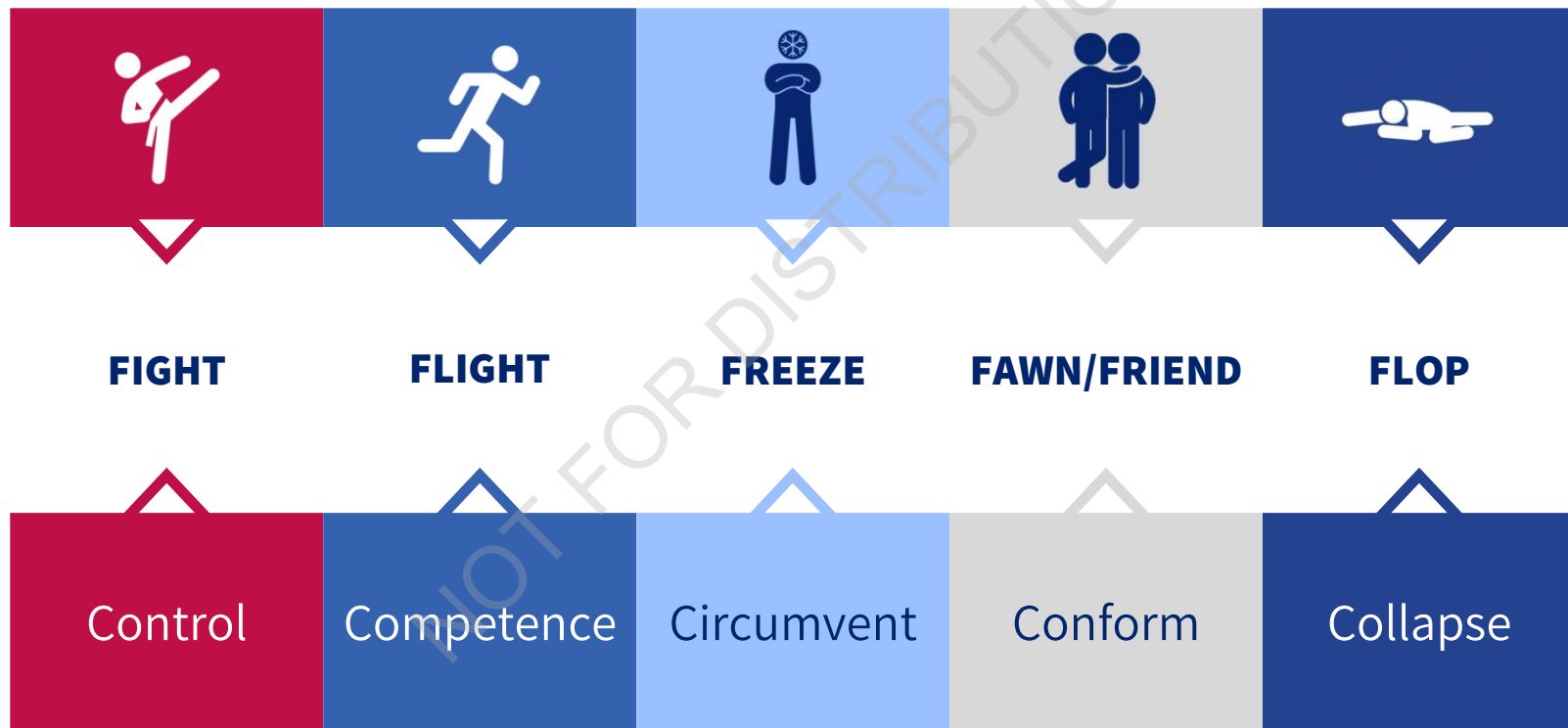
Sex- and Gender-Based Violence

- Culture affects how individuals view and experience gender-based violence (GBV)

- GBV occurs across many different types of relationships

- Relationships, and the power dynamics of those relationships, impact what strategies will be effective

- Cultural aspects that influence how GBV is experienced and viewed:
  - Spoken and unspoken rules about behavior
  - Bodily autonomy
  - Fear, shame, and evaluation
  - Religious or familial beliefs

Trauma-Informed Approach

- A trauma-informed approach refers to how a school/institution thinks about and responds to those who have experienced or may be at risk of experiencing trauma

- **Key principles** of trauma-informed practice:
  - Safety
  - Trustworthiness and transparency
  - Collaboration and mutuality
  - Empowerment, voice, and choice
  - Cultural responsiveness

- Prevention work recognizes trauma's effect, including identity-based intersections
  - Impacts what is presented and how it is presented
  - Requires an intentional, individualized approach

Prevention as a Community-Wide Effort

Beyond Compliance

- Laws, regulations, and guidance establish the **minimum** actions required to ensure access

- At its best, prevention work can:
    - Address and eliminate barriers to a safe and healthy educational environment
    - Promote agency of individuals
    - Foster a culture of care

- If effective, an investment in prevention is a savings on the costs/resources of response

Intersection of Prevention Education and Culture Change

School/Institution Culture

Prevention Efforts

Culture Change
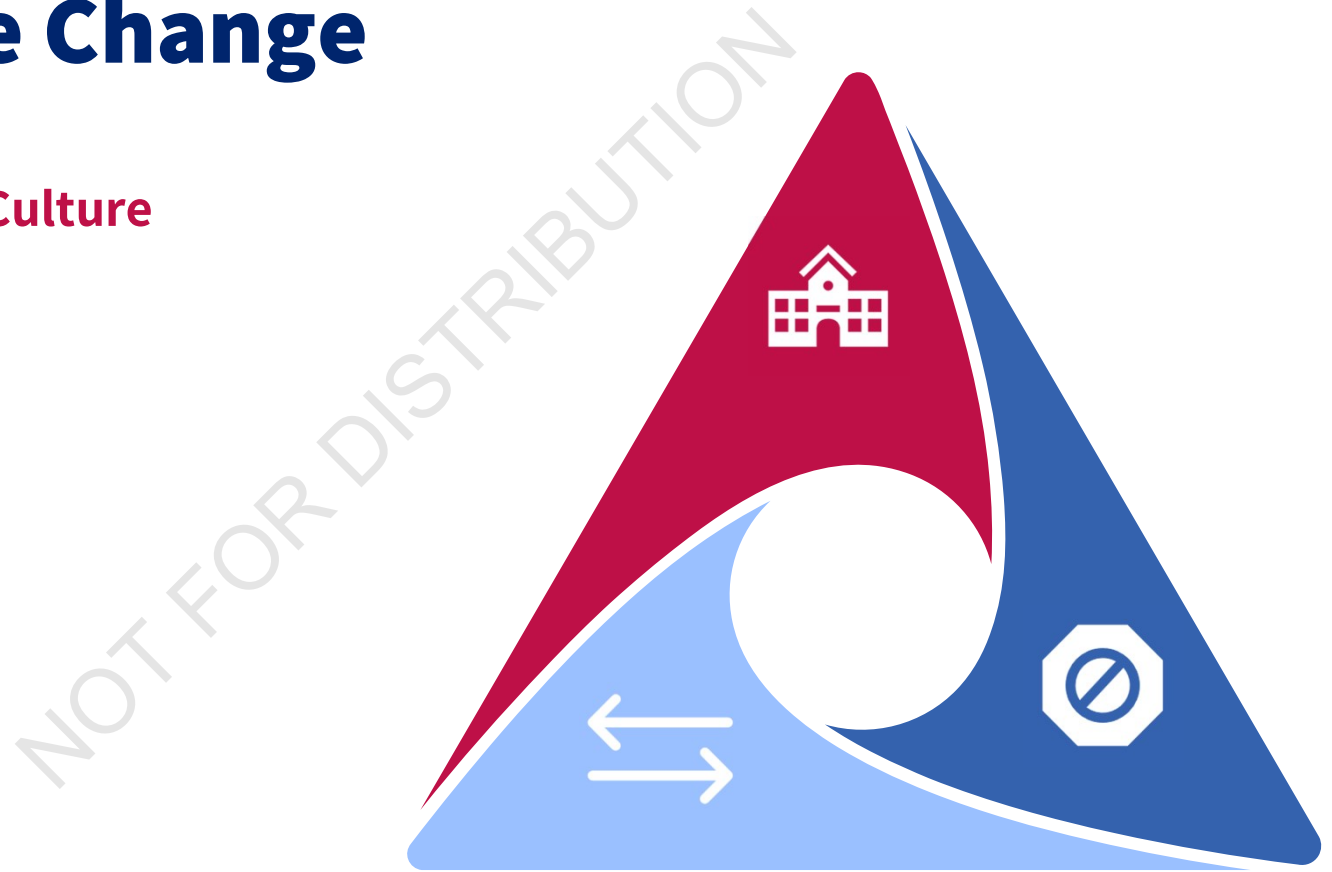
Creating Culture Change

- Prevention efforts should create sustained culture change in school/institutional communities

- Kotter's 8 Step Change Model is one possible guide to realizing change at an organizational level

- The goal is to inspire people to act by building momentum that excites community members to pursue a compelling future together

Kotter's 8-Step Change Model

ENLIST
committed ambassadors

FORM
a strategy to bring about change

BUILD
a guiding coalition

CREATE
a sense of urgency for change

ENABLE
action by removing barriers

GENERATE
short-term wins

SUSTAIN
acceleration

INSTITUTE
change

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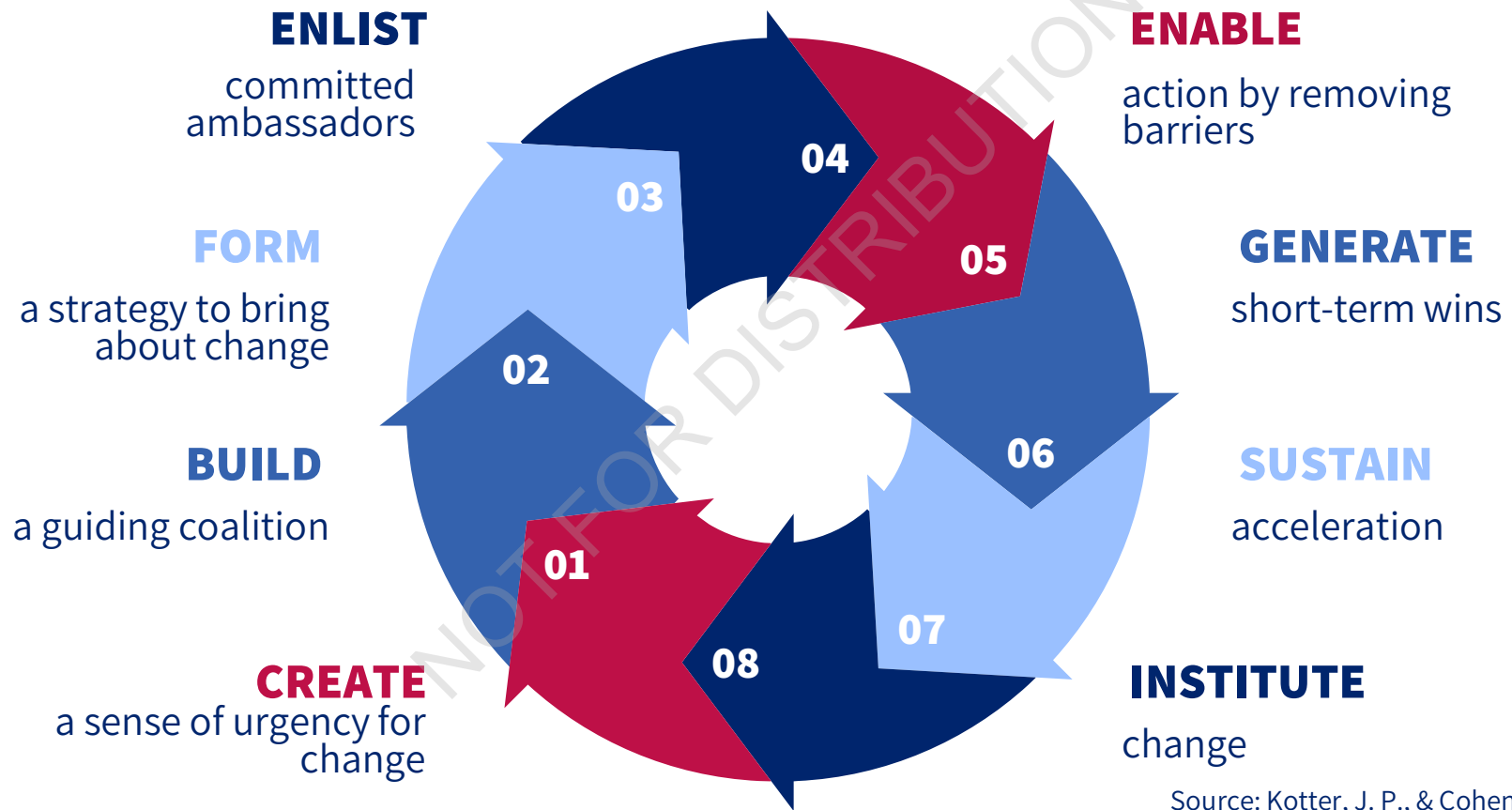
Source: Kotter, J. P., & Cohen, D. S. (2012). The heart of change. Harvard Business Review Press.

Infusing Prevention

Adopting or enhancing a prevention model should contemplate infusing prevention wherever possible, including:

Policies

Programs

Environments

Buy-In at All Levels

- Comprehensive prevention requires buy-in and participation of the entire community

- Consider the offices/departments/programs that may have intersecting or complementary goals

- Collaborate with teachers/faculty and staff who may have relevant professional or research experience

- **Engage student groups**
  - Both those who have shared grievances and those with mission alignment

Steps for Cultivating Buy-In

- Gather a **small working group** of invested stakeholders
  - Identify staff/offices/programs that may have shared or complementary goals
  - Identify students and employees with shared values/interests

- Conduct initial **research**
  - Assess baseline for targeted populations
  - Complete an audit of current prevention efforts
  - Identify areas of need or current trends to address, including specific behaviors, underreporting, accessing support, etc.
  - Identify prevention best practices with proven results/outcomes
  - Understand how policy change or new initiatives receive approval/support

- Outline a **prevention model** based on the unique needs of the school/institutional community

Steps for Cultivating Buy-In

- **Consider barriers to successful adoption**
  - Senior leadership sign-off
  - Social/Political pressure
  - Available expertise, resources, personnel, funding
  - Competing school/institutional priorities
- **Create an action/implementation plan**
  - Determine and delegate roles, responsibilities
  - Include benchmarks and timelines
  - Establish an assessment plan
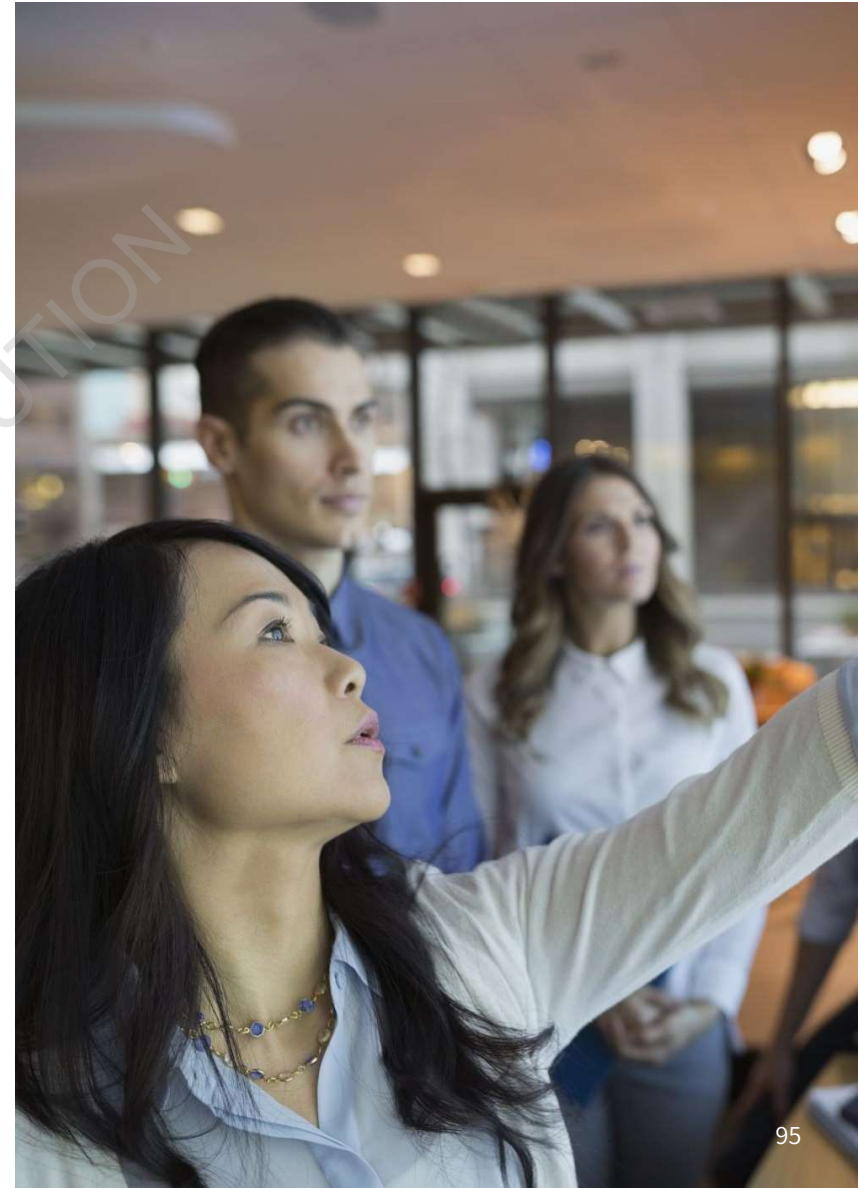
Steps for Cultivating Buy-In

- **Strategically present the action/implementation plan**
  - Stakeholders will require a different lens, language, and approach to garner support, for example:
    - Institutional/District leadership may be most concerned with compliance mandates
    - Student Government may be most concerned with current reporting trends and gaps in services
  - Consider the individual best suited to present the proposal
- **Amend and adopt the vetted plan; start implementation**

Responding to Resistance

- Prevention messaging and programming sometimes face opposition based on:
    - Established cultural norms
    - Social movements/political pressures
- Strategies for overcoming resistance may include:
    - Leveraging policy
    - Adapting prevention messaging
    - Engaging students outside of the school or classroom setting
    - Harnessing student leadership
    - Fostering strategic relationships
    - Focusing on community level strategies
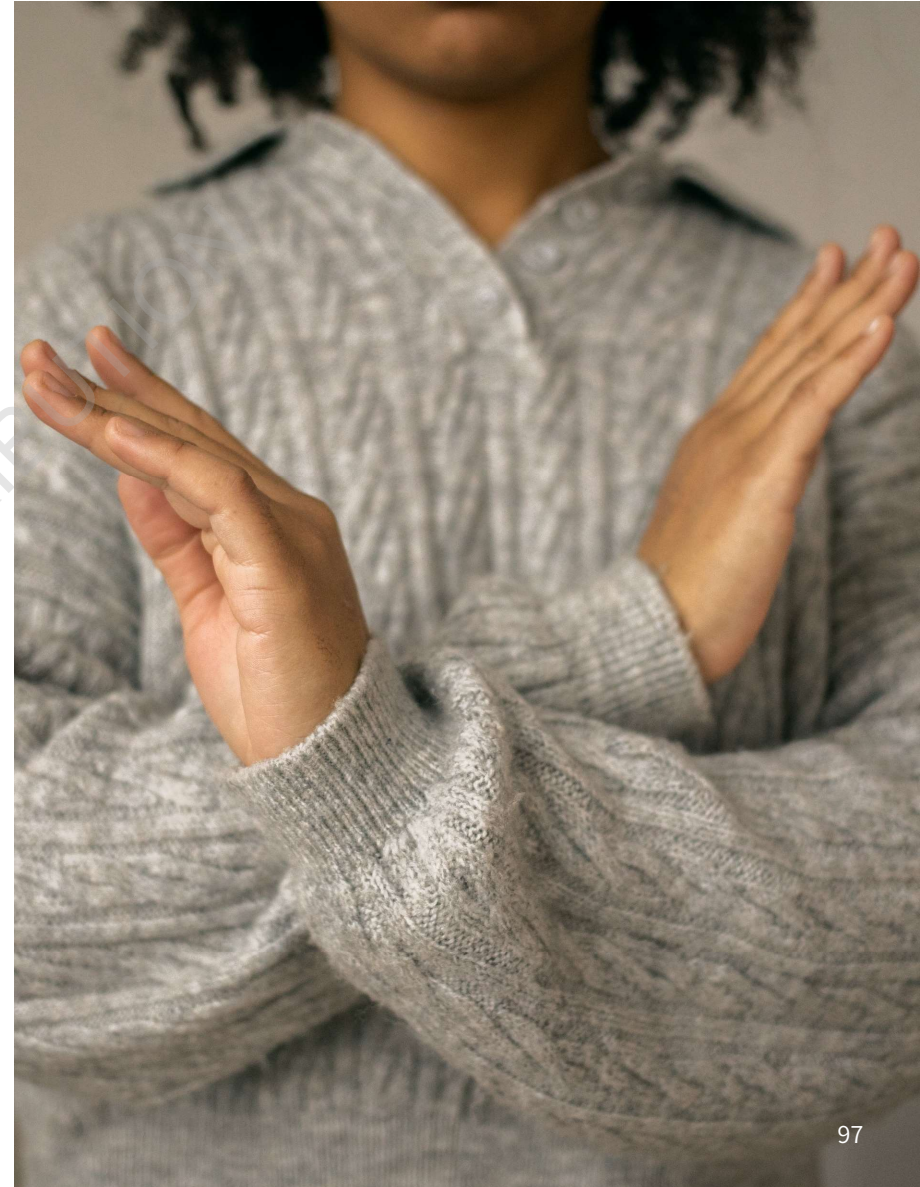
Responding to Resistance

> " Learning how to message prevention, or tell the story of prevention, more effectively may help in countering misinformation, misconceptions, and fear. "

Specific Programs, Strategies, and Initiatives

Specific Prevention Strategies

Prevention Initiatives with Impact

- Perpetration-focused prevention

- Environmental management
  - Community/school partnerships
  - Reducing the locus of harm

- Social norms/normative marketing
  - If pluralistic ignorance exists and can be remedied, behavioral changes can result
  - If false consensus exists and can be dispelled, behavioral changes can result

- Bystander empowerment

- Skills for preventing sexual violence and sex discrimination

Perpetrator-Focused Prevention

- Schools/Institutions often rely on prevention programming focused on protective factors to prevent **victimization** yet bypass addressing risk factors for **perpetration**

- **Risk factors** are linked to a greater likelihood of incidents of sex- or gender-based violence
  - Contributing factors; not necessarily direct causes
  - Not everyone identified with risk factors becomes a perpetrator
  - A combination of individual, relational, community, and societal factors contribute to the risk of becoming a perpetrator

Adapted from: https://www.cdc.gov/violenceprevention/sexualviolence/riskprotectivefactors.html.

Environmental Management

- Environmental Management is embraced by the National Institutes of Health and Centers for Disease Control and Prevention
  - Focus on managing and mitigating risk as a primary prevention strategy
  - Applicable to substance use, mental health, suicidality, and sex and gender-based discrimination and violence

> " Designing spaces and policies that moderate rather than augment existing power inequalities is essential to sexual assault prevention. "

Source: *Sexual Citizens* by Hirsch and Khan.

Environmental Management

- Includes:
  - Addressing abusive/problematic groups
  - Improving safety
  - Establishing and consistently applying policies
  - Reducing alcohol and other drug consumption/abuse
  - Addressing community-level risks through environmental approaches
- Considers all aspects of students' learning climate, including teacher-led field trips, sports travel, experiential learning sites, laboratories, locker rooms, etc.
- Comprehensive environmental scans can identify areas of concern

Bystander Empowerment

- **Bystander:** anyone who observes a dangerous or potentially dangerous situation

- **Bystander Effect:** occurs when an individual chooses not to act
  - Diffused responsibility
  - Pluralistic ignorance

- **Bystander Intervention:** involves engaging community members in reducing, stopping, or preventing behavior that is harmful

Latane, B and Darley, J. (1970). *The unresponsive bystander: Why doesn't he help?*. Appleton-Century Crofts: University of Minnesota.

Bystander Empowerment

- Shifts the onus of preventing harm from the target to the community and the perpetrator

- Focuses on fixing the problem rather than teaching people to not become a target

- Creates safe places to gather; the community is collectively responsible for maintaining a safe environment

- Community is:
  - Encouraged to directly address inappropriate behavior by not tolerating sexist jokes, misogynistic behavior, bullying, etc.
  - Trained to intervene when there are concerning behaviors present

Bystander Empowerment

Can be used to address:

Sexual Harassment

Objectifying, gender-focused jokes, sexual comments, bullying, and explicit pictures

Coercive behavior and inappropriate advances

Touching, pinching, and groping

Threats, blackmail, sexual bribery, and stalking (pre-attack)

Physical force, fondling, rape, IPV, and stalking (post-attack)

Sexual Assault
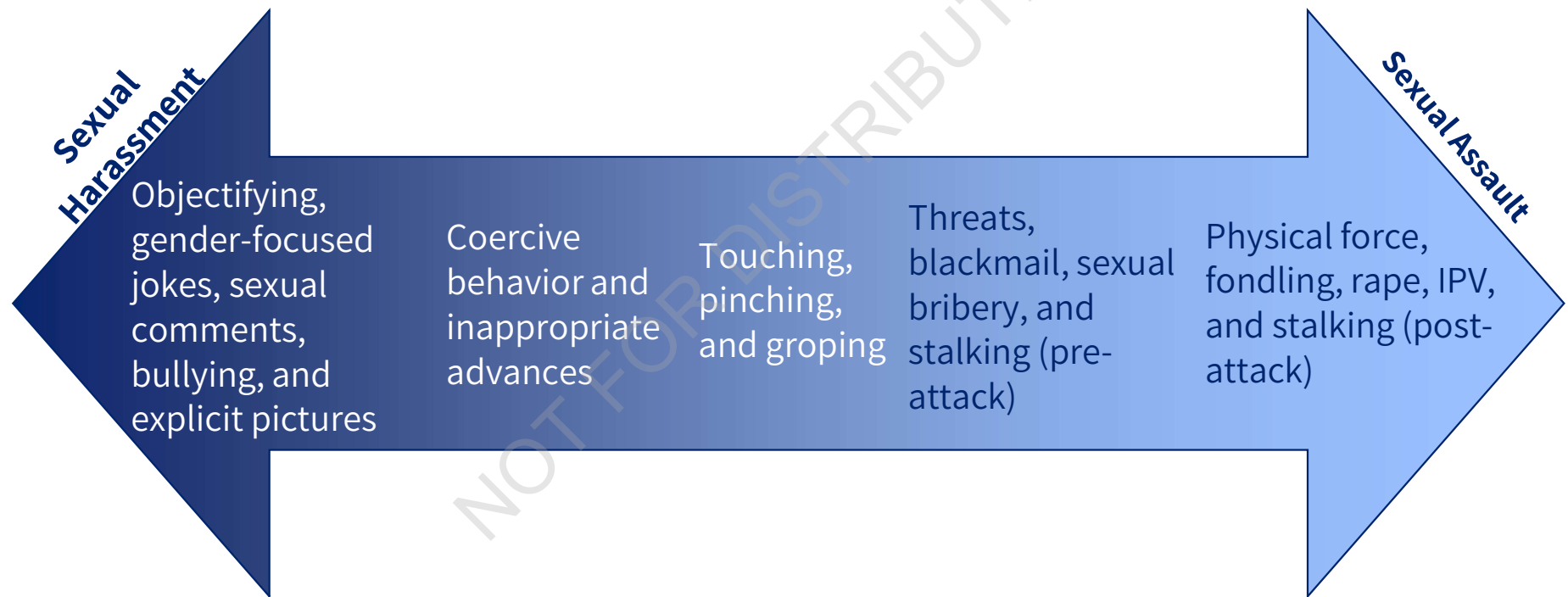
Bystander Empowerment

Barriers to intervening may include:	Encouragement to intervene may include:
▪ Belief that others think the behavior is acceptable/normative	▪ A culture that values respect, helping others, wellness, empowerment, etc.
▪ Fear of causing conflict	▪ Training on identifying problematic situations
▪ Belief that it is "not my business"	▪ A community approach to responsibility
▪ Belief that someone else will help	▪ Confidence in skills to recognize concerns and effectively and safely intervene
▪ Lack of awareness	
▪ Uncertainty about what to do	

Building an In-House Training Program

- Bystander Intervention training programs most often use a train-the-trainer model for students

- **Benefits to building an in-house training program include:**
    - Content control
    - School/Institutional community values and standards alignment
    - Cost effectiveness
    - Content update ease
    - Service/Departments referral inclusion
    - Student leader engagement

Pre-Packaged Training Programs

- Pre-packaged Bystander Intervention programs have been widely used by schools/institutions for years

- **Benefits to purchasing a program include:**
  - Content and design completion
  - Research-backed outcomes
  - Regional/national trend benchmarks
  - Implementation ease
  - Customization option
  - Pre-built reports/completion tracking
  - Staff professional development and training opportunities

Normative Marketing

- Based on the concept that people's behavior is influenced by what they **think** is "normal" or "typical"
  - Actions are often based on misinformation related to attitudes and behaviors
  - Misperceptions have real consequences
- Aims to provide accurate data about what others actually do or think
  - Positive social norming campaigns uplift what is believe to be "atypical" without reinforcing the behaviors we seek to reduce/eliminate
    - Example: A baseball team voicing dissent and intervening when a teammate shares a sexist joke

Normative Marketing

- Low entry cost, and relatively high entry energy
    - Target risky behaviors
    - Survey norms and targeted healthy norms
    - Share those norms with the community
    - Evaluate

- Ex: Information disseminated through posters, restroom stalls, emails, and e-banners

- "Put some spinach in the smoothies." – Dr. Chris Linder

Campaign and Program Examples

Normative Marketing Examples

Awareness Campaigns and Programs

Transsstudent.org

The Gender Unicorn

Graphic by: **TSER** — Trans Student Educational Resources

Gender Identity
- Female/Woman/Girl
- Male/Man/Boy
- Other Gender(s)

Gender Expression
- Feminine
- Masculine
- Other

Sex Assigned at Birth
- Female
- Male
- Other/Intersex

Physically Attracted to
- Women
- Men
- Other Gender(s)

Emotionally Attracted to
- Women
- Men
- Other Gender(s)

To learn more, go to:
www.transstudent.org/gender

Design by Landyn Pan and Anna Moore

Source: https://transstudent.org/what-we-do/graphics/gender-unicorn/.

Red Flag Campaigns

Source: http://www.theredflagcampaign.org.

Video Examples

Source: https://www.youtube.com/watch?v=AArIv-tvxWE.

Source: https://www.youtube.com/watch?v=MwQ5ur9OZ-g.

Source: https://www.youtube.com/watch?v=TBFCeGDVAdQ.

Keeping Prevention Education Current

- Understand current issues, language, and relevance of topics

- Elicit feedback from school/institutional community, especially students

- Pivot messaging, modality, and content as needed

- Students and employees change over time, prevention content should too

- Example:
  - Cyber sexual abuse and stalking is becoming more common at all educational levels
  - What awareness, education, and skill building is the school/institution providing to respond to cyber sexual abuse and stalking?

Activity:
Program Planning Exercise

Leveraging Partnerships

"One of the most important, cross-cutting social policy perspectives to emerge in recent years is an awareness that no single institution can create all the conditions that young people need to flourish."

Source: Melaville, A. & Blank, M. (1998). *Learning together: The developing field of school-community initiatives.* Flint, MI: Charles Stuart Mott Foundation.

The Case for Partnerships
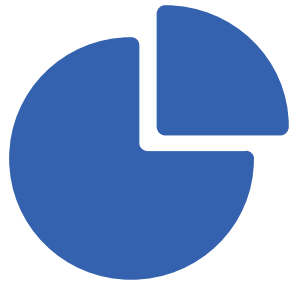
Assist in Filling Gaps

Increase Capacity & Integrate Resources
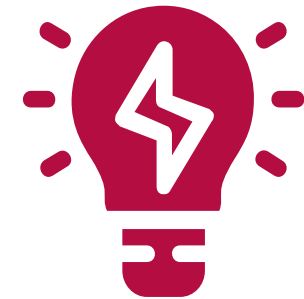
Create Generative Solutions

Guiding Principles

Partnerships are challenging; those with the highest rates of positive impact include some of the following principles:

- Focus on improving systems while helping individuals

- Involves system planning, implementation, and evaluation

- Include clearly defined goals, scope, vision, and desired outcomes

- Informed by demonstrated need, data, and research

- Employ power-sharing with decision making and resource allocation

- Work toward mutually beneficial outcomes

Source: School-Community Partnerships: A guide. Center for Mental Health in Schools at UCLA.

Mutually Beneficial Partnerships

- Established with identified goals and outcomes that benefit all parties
  - Example: Agency Partnership
    - Benefit to the school/institution: receive additional support
    - Benefit to the agency: gain access to populations they are trying to serve
- Leverage the experience, knowledge, and resources to elevate collective work
- Require power-sharing and transparency at all phases and with all decisions

Phases of Partnership Development

Building

- Use an asset-based approach
- Assess known gaps
- Assess known strengths

Developing

- Create shared goals
- Outline a plan
- Garner support
- Draft clear MOUs

Maintaining / Assessing

- Communicate changes
- Audits of content and departments
- Assess and share outcomes

Common Partnerships

- Community organizations and agencies

- Faculty researchers

- Institutional Research

- Local law enforcement

- Mental health providers with expertise in sex- and gender-based violence

- Public health entities

- School consortiums

- Sexual Assault Nurse Examiner (SANE) programs

- Sexual Assault or Domestic Violence Advocates

Internal Partnerships

School/Institution Internal Partnerships

- Effective community-wide prevention involves:
  - Expertise, positionality, and resources of a diverse group of stakeholders
  - Coordinated strategy and implementation
- Internal partnerships models:
  - Advisory Council
  - Wellness/Prevention Coalition
  - Working group/Committee with specific focus
  - Sexual Assault Response Team (SART)

Sexual Assault Response Team

- Provides reporting information and immediate response services/support

- Members:
  - Title IX Team (TIXC, Deputy Coordinators, Investigators, Decision-makers, Informal Resolution Facilitators, Advisors)
  - School Resource Officers (SROs) or campus safety/police
  - School counselors or counseling services
  - School nurse or health services
  - School/institution first responders (e.g., teachers, residence life staff)
  - Representative from Behavioral Intervention Team (BIT)/Student Support Team
  - In-house professional who serves as a student advocate

Coalition Model

Guides and supports prevention education and training:

- Program planning, implementation, and assessment

- Publication, policy, and material reviews

- Track trends, word-of-mouth concerns

- Expertise and resource identification

- Diverse experience, background, and perspective contributions

- Shares the efforts, messaging, and outcomes with the greater community

Coalition Model

- Title IX Team

- SRO/campus safety/police

- School counselor/counseling

- School nurse/health services

- Wellness or prevention staff

- Students

- Human resources

- Teachers/staff/faculty

- Faculty researchers

- District/Institutional Research

Behavioral Intervention Teams

Behavioral Intervention Teams

- Behavioral Intervention Teams (BITs) monitor school/institutional trends and provide meaningful intervention for at-risk community members
  - K-12 schools may have a different name and/or function may be incorporated into another structure
- BITs are school/institutional officials who meet regularly to:
  - Gather and review information about individuals in the school/institutional community
  - Assess level of risk using an objective tool
  - Deploy support, resources, and interventions
- BITs are not just for those involved in sex- or gender-based incidents

Title IX on the BIT

- ATIXA **recommends** that TIXC or a Deputy serve as a liaison with the BIT
  - Invited to meetings when relevant individuals are on the agenda
- TIXC should be well-trained in BIT philosophy, procedure, and operations
- BIT members should be well-trained in scope of Title IX, Title IX response to reports, and how to file a report
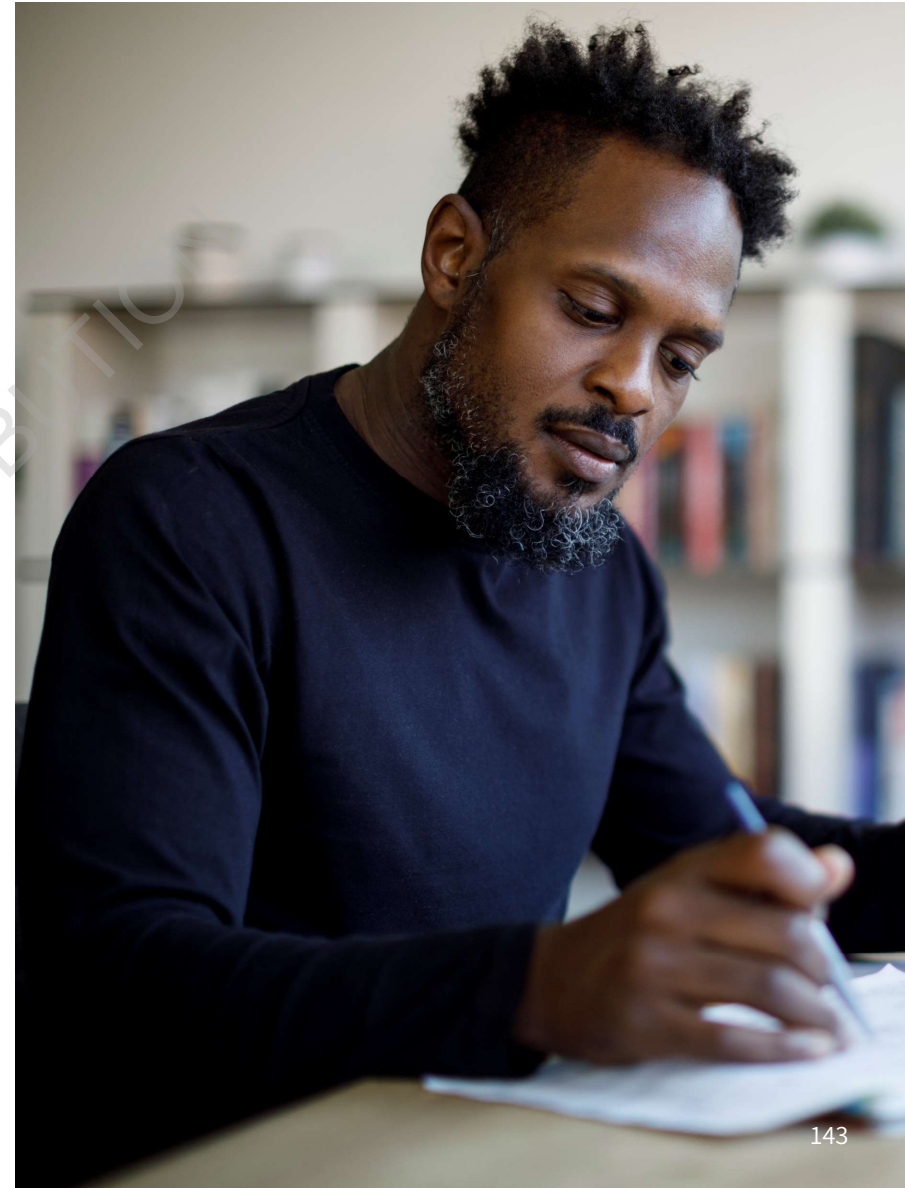
Coordinating with BITs

TIXC may need to consult with BIT for a several reasons:

- Receive information indicating risk or concern for a Complainant, Respondent, or witness

- Administer a violence risk assessment for possible emergency removal or administrative leave

- Concern that participation in a Title IX process may create added stress for involved parties

- Identify a trend related to risky behavior

- Strategize interventions in stalking/IPV situations

Distinguishing Title IX and BIT

Title IX Team

- Addresses sex/gender-based discrimination

- Legally required to **investigate** reported incidents, **stop** discrimination, **prevent** its recurrence, and **remedy** the effects

- Expertise in investigations, due process, interim measures, etc.

Behavioral Intervention Team

- Responds to **all** types of concerning behavior

- **Gathers** information, **assesses** the risk for future concern, and **deploys** interventions to manage/mitigate the risk

- Expertise in responding holistically to student needs, trained in identifying, assessing, and responding to indicators of problematic or violent behavior

Overlap of Title IX and BIT

Title IX Reports	BIT Referrals
Complaints involving incidents of aggression, threats of violence, violence, harm to self, stalking, hazing, vandalism, substance abuse	Referrals involving components of sex– and gender-based violence necessitating Title IX response
For example:	**For example:**
▪ Respondent has history of suicidal ideation ▪ Employee's ex-partner repeatedly calls the workplace and makes threats to employee and coworkers	▪ Employee notifies campus police that they recently obtained an order of protection from their estranged spouse ▪ Student employee has been frequently late or absent from work and has visible bruising on multiple occasions

Information Sharing

Title IX and BIT share information in a streamlined and timely manner:

- Family Educational Rights and Privacy Act (FERPA): legitimate educational interest

- Supportive Measures
    - No contact orders
    - Housing assignments and restrictions
    - Classroom or classwork modifications
    - Restrictions to areas of campus/specific activities
    - Emergency removals

- Pending informal resolutions

- Pending investigations, informal resolutions, hearing process

- Outcomes, sanctions, and remedies

- Pending criminal investigations

External Partnerships

Types of Partnerships

Partnerships may take many forms, each with benefits and challenges:

- Coordinating services

- Informal linkage

- Long-term collaborations

Common Partnerships

- Law enforcement, victim services unit
- Legal aid services
- Community organizations or agencies
- Mental health providers with expertise in sex- and gender-based violence
- National organizations
- Sexual Assault Advocates
- Sexual Assault Nurse Examiner (SANE) programs
- Social welfare or government agencies
- Wellness/prevention/sexual assault response consortiums

Victim Advocates

- Differ from Title IX process Advisors

- Provide confidential services directly to the involved party
  - Receive professional training
  - Listen, accompany, guide, and support
  - Offer information on available options without bias or persuasion
  - Coordinate resources and remedies
  - Communicate with parents/guardians
  - Liaison with school/institution administrators

Victim Advocates

- Tenets of Advocacy:
  - Listen with respect, not judgment
  - Provide options, not advice
  - Enable successful cooperation among response team
- Partnering with Advocates increases school/institution capacity
  - Assist or lead prevention training and education
  - Support or advise student groups
  - Offer insights about trends
  - Provide confidential support services for students and employees

Memoranda of Understanding

Partnerships benefit from clear written agreements:

- Partnership/Initiative goal(s) with measurable outcomes

- Leadership roles and expectations

- Timeline and length

- Resource allocation

- Communication protocols, including information sharing

- Participation expectations
    - Examples: monthly meeting attendance, assessment implementation

- Decision-making process

Activity: MOU Sample Review

Comprehensive Program Assessment

Elements of an Effective Assessment Plan

Is it clear?

Is it measurable?

Is it useful?

Is it aligned?
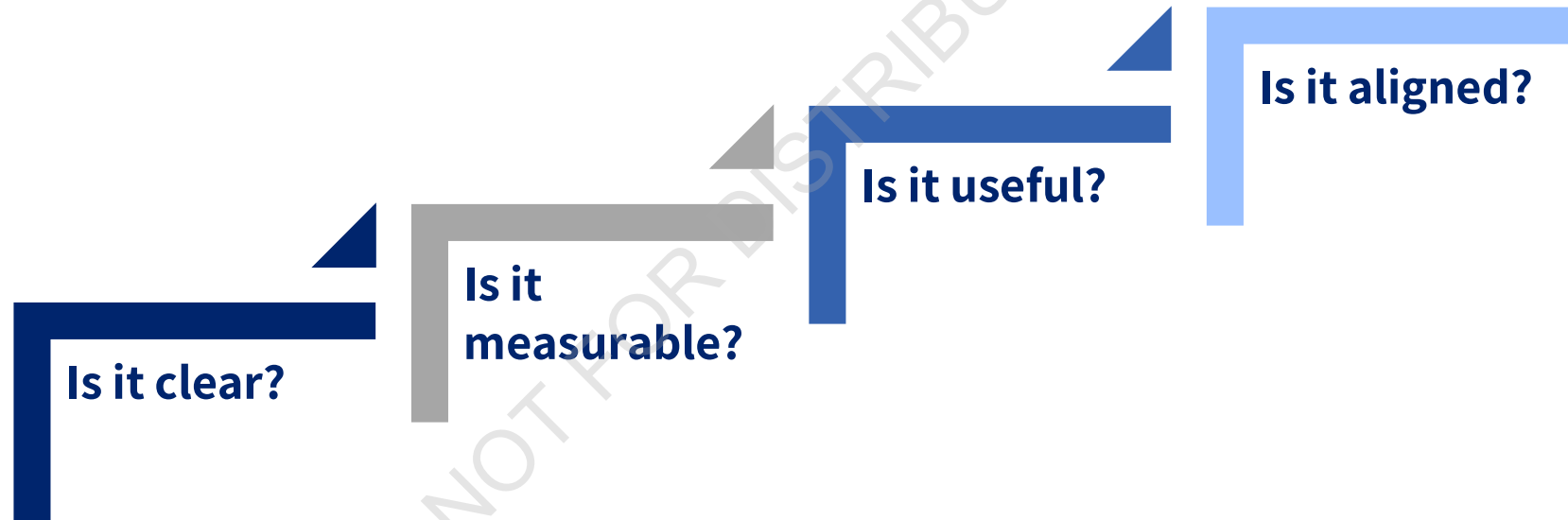
Different Types of Assessment

Descriptive Statistics

Inferential Statistics
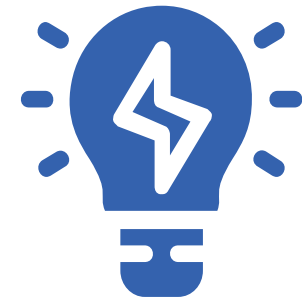
Program Effectiveness

Research Methods

Surveys

- Knowledge gained
- Change over time

Focus Groups

- Assess perceptions of prevention efforts, barriers, etc.
- Gauge interest
- Assess climate

Secondary Data

- Type of reports
- Referrals to community partners
- Resource access by student demographic
- Barrier analysis

Addressing Data Gaps

- Leverage staff, administrators, and teacher/faculty assessment expertise

- Ask questions that may challenge the status quo

- Be wary of assumptions and bias

- Include data about all community members

- Identify populations or services that are not reflected in the data
  - Are there populations of the student body who are not submitting reports?
  - What students are not accessing prevention programming beyond the initial mandatory session?

- Benchmark data against others of similar size/population

Role of Audits

- Regular, systemic review of prevention programming efforts at the district/institutional or departmental level can ensure compliance and enhance efforts
  - Who is responsible for maintaining a comprehensive list of all prevention efforts?
  - Is there a system in place to ensure the school/campus is meeting all necessary requirements (state, Title IX, Clery, grants, etc.)?
  - Is there an inventory of what is offered and how it is made available?
  - Is there a mechanism for tracking what topics are covered?

Annual Report

Provide a comprehensive overview of the prevention and training efforts and outcomes over the course of the academic year

- Compiling an annual report can feel onerous, some tips to help:
  - Maintain ongoing tracking and assessment efforts throughout the year
  - Work collectively with an established school/institutional assessment group or prevention coalition
  - Create or follow a template
  - Allot sufficient time for writing and review
- Consider showcasing information that helps tell the full scope of prevention and training efforts, both qualitative and quantitative

Example Annual Report Excerpts

Title IX Prevention Team

- Composed of more than 30 members across the campus and greater Knoxville community

- Includes student, faculty, and staff representation from UT Athletics, University Housing, the Office of Student Conduct and Community Standards, the Office of the Dean of Students, the Office of Sorority and Fraternity Life, the Office of Multicultural Student Life, and numerous other campus departments, as well as the Sexual Assault Center of East Tennessee and the Knoxville Family Justice Center

- Establishes a long-term commitment to prevention across the campus community through primary, secondary, and tertiary prevention

- Ensures that campus-wide prevention (student, faculty, and staff) is aligned with evidence-based research and the patterns and trends of the UT community

- Provides oversight and support in the development of annual prevention plans for student life, inter-collegiate athletics, and faculty and staff

Source: https://titleix.utk.edu/wp-content/uploads/sites/96/2022/04/2021-Annual-Report.pdf.

Total Number of Supportive Measures: 300

	Sexual Misconduct	Relationship Violence	Stalking	Retaliation	Other	Total
Housing	10	1	0	0	3	14
Academic Support	31	21	8	0	17	77
Medical	7	1	0	0	0	8
Mental Health Services	21	11	4	0	9	45
Referral to Sexual Assault Center of East Tennessee	14	1	1	0	1	17
No-Contact Directive	18	4	11	0	14	47
Other	31	21	11	0	29	92
Total	132	60	35	0	73	300

Source: UTK 2021 Annual Report

Number of investigations opened

FY 19–20: 11
FY 20–21: 18

Number of students found responsible for at least one sexual misconduct violation of the Student Conduct Code

FY 19–20: 6
FY 20–21: 10

Prevention & education

Training and education are important tools for preventing sex- and gender-based violence, harassment, and discrimination. Many units at the University provide an array of education and training opportunities to address these behaviors and to increase awareness of University policies, support resources, and reporting offices. These programs vary in terms of content, scope, and length. Examples of a few of these training and education programs follow.

- **Empowering Prevention & Inclusive Communities** provided 34 trainings to 935 individuals in 2019–2020 and 29 trainings to 609 individuals in 2020–2021.

- **Violence Prevention & Advocacy at UW Bothell** presented 34 violence prevention and advocacy workshops to approximately 2,300 individuals during the 2020–2021 year.

- At the UW's Seattle campus, **LiveWell's Peer Health Educators** presented approximately 145 workshops during 2019–2020; during 2020–2021, they presented 20 workshops about healthy relationships and 17 workshops on relationship and sexual violence education, in addition to other workshops.

- **Addressing Discrimination and Harassment** was added to Welcome Day, the UW's new employee orientation, in January 2020.

Source: UW, Title IX Annual Report 2020-2021.

Leveraging Data to Inform Program Needs

- Regularly sharing data related to the needs of prevention and training efforts and their efficacy can:
  - Build trust with internal and external community
  - Increase connection to prevention and training program initiatives
  - Inform future planning
- Implementing an annual assessment plan encourages commitment, resource management, and continual improvement

Assessment Strategies and Cycle

- Identify an annual assessment cycle

- Know the assessment focus
  - Example: This academic year, build assessments for stalking prevention efforts
  - Example: By June, implement a climate survey

- Create a clear, manageable plan
  - Consult with school/institutional and community partners
  - Collaborate on assessment tools and data analysis whenever possible
  - Engage the expertise of those in the school/district or institution

- "Butt in seat time"
  - Prioritize and block time for assessment on a regular, ongoing basis

Assessment Outcome Sharing

Students

Prospective Students/ Employees

Administrators

Governing/ Accrediting Bodies

Faculty/Teachers

Parents/Guardians/ Community Partners

ADL / PYRAMID OF HATE

The *Pyramid* shows biased behaviors, growing in complexity from the bottom to the top. Although the behaviors at each level negatively impact individuals and groups, as one moves up the pyramid, the behaviors have more life-threatening consequences. Like a pyramid, the upper levels are supported by the lower levels. If people or institutions treat behaviors on the lower levels as being acceptable or "normal," it results in the behaviors at the next level becoming more accepted. In response to the questions of the world community about where the hate of genocide comes from, the *Pyramid of Hate* demonstrates that the hate of genocide is built upon the acceptance of behaviors described in the lower levels of the pyramid.

Genocide
The act or intent to deliberately and systematically annihilate an entire people

Bias Motivated Violence
Murder, Rape, Assault, Arson, Terrorism, Vandalism, Desecration, Threats

Discrimination
Economic discrimination, Political discrimination, Educational discrimination, Employment discrimination, Housing discrimination & segregation, Criminal justice disparities

Acts of Bias
Bullying, Ridicule, Name-calling, Slurs/Epithets, Social Avoidance, De-humanization, Biased/Belittling jokes

Biased Attitudes
Stereotyping, Insensitive Remarks, Fear of Differences, Non-inclusive Language, Microaggressions, Justifying biases by seeking out like-minded people, Accepting negative or misinformation/screening out positive information

Queering Up the Title IX Process

Responding to Reports of Discrimination Based on Sexual Orientation and Gender Identity Under the 2024 Regulations

October 30, 2024

Dan Schorr, LLC

OUR SERVICES

- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Hearing and Process Advisors
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage
- Mediations and Informal Resolution Facilitation
- Expert Witness Testimony

MORE INFO AT DANSCHORRLLC.COM

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ALYSSA-RAE MCGINN, ESQ.

Vice President

Boston

Alyssa-Rae McGinn has extensive experience serving as an investigator, decision maker, hearing chair, mediator/informal resolution facilitator, and interim Title IX Coordinator, with particular expertise in applying regulatory requirements and best practices in complex matters of sexual misconduct and identity-based harassment at educational institutions. Alyssa-Rae balances a compassionate understanding of the difficulty parties face being involved in such matters with the importance of remaining compliant with relevant law and policy. Alyssa-Rae was previously a Senior Associate at Ankura, where she and Dan Schorr established the firm's Title IX and Civil Rights Investigations practice and grew it to assist institutions nationwide. Prior to Ankura, Alyssa-Rae was an Associate Director in Kroll's Business Investigations & Intelligence practice, where she co-founded the Women's Network at Kroll.

JENNA FARRELL

Investigator

New York

Jenna Farrell specializes in investigations of sexual misconduct and discrimination allegations based on sex, gender, and race. She was previously an intern in Kroll's Business Investigations & Intelligence practice where she worked on a wide array of investigations including due diligence, fraud investigations, and pro bono human rights matters. Prior to Kroll, Jenna interned at the Washington County District Attorney's Office in New York State focusing on cases of sexual misconduct and domestic violence. She is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

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2024 TITLE IX REGULATIONS

"Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, **sexual orientation**, and **gender identity**." (§ 106.10)

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"*Sex-based harassment* prohibited by this part is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the **bases described in § 106.10.**" (§ 106.2)

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2024 TITLE IX REGULATIONS

"*Nondiscrimination policy.* Each recipient must adopt, publish, and implement a policy stating that the recipient does not discriminate on the basis of sex and **prohibits sex discrimination** in any **education** program or activity that it operates, as required by Title IX and this part, including in **admission** […] and **employment.**" (§ 106.8(b)(1))

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2024 TITLE IX REGULATIONS

"*Training.* The recipient must ensure that the persons described […] receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. This training must not rely on sex stereotypes.

- (1) **All employees.** All employees must be trained on:
  - (i) The recipient's **obligation to address** sex discrimination in its education program or activity;
  - (ii) The **scope of conduct** that constitutes sex discrimination under Title IX and this part, including the definition of sex-based harassment; and
  - (iii) All applicable **notification and information requirements** under […] 106.44.
- (2) *Investigators, decisionmakers, and other persons who are responsible for* **implementing the recipient's grievance procedures** *or have the authority to modify or terminate supportive measures[…]*
- (3) **Facilitators** *of informal resolution process[…]*
- (4) **Title IX Coordinator** *and designees.*" (§ 106.8(d))

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A NEW REPORT COMES IN…

Sage (she/her) is a trans femme first-year who reports the following to the Title IX Office:

- Sage was in a sexual relationship with senior Bella (they/them) from Orientation in August until the end of September.

- During the relationship, Sage felt uncomfortable about some of their sexual encounters. In particular, there was one occasion when Bella anally penetrated Sage with a strap-on dildo, even though Sage had said she was not interested in doing that. There was another occasion when Sage woke up to find Bella touching her penis. Finally, Sage ended the relationship at the end of September because Bella told her that they had shared nude photos of Sage with Bella's other partner and insisted that this was normal among their other relationships.

- Since the end of the relationship, Bella has been texting Sage approximately ten times per day, even though Sage told them that she wanted to cut off contact. In these texts, Bella threatened to socially isolate Sage, share her photos around campus, and "come find" Sage so they can "finally have it out."

- Sage is feeling scared and last weekend, she called campus safety. However, when the officer arrived at her dorm, he looked at her "skeptically" and said, "You're pretty big, you can probably handle a girl" and asked why she was even scared when Bella was probably "more scared of someone like you."

REPORT INTAKE

- As with every intake, be kind, empathetic, transparent, and open-minded

- Reporting is always difficult, but LGBTQ+ folks may face additional barriers:
  - Fear of being dismissed, not taken seriously, or not believed
  - Fear of being blamed as the aggressor
  - Fear of being judged as deviant or abnormal
  - Hesitation to go against a member of the community
  - Concern about social isolation
  - Imposter syndrome/doubts about whether their reaction is "normal"

- Only ask for necessary details at this stage

- Check in about safety and support

- Review range of options – from support only to formal process

- Remember that a *formal* complaint is no longer needed to initiate a formal process

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INITIAL ASSESSMENT

- **If true, would these allegations meet any policy definitions?**

- Avoid evaluating through the lens of your own knowledge or experience, even if you share identities with Sage or Bella

- Be aware of both positive and negative bias
  - Don't evaluate the report as less credible, less serious, etc. just because of the parties' identities, BUT
  - Don't evaluate the report as *more* credible, *more* serious, etc. just because of the parties' identities either

- Consider consulting campus resources if you are confused or uncertain about anything

- If you need more information in order to assess the report, go back to the complainant

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INITIAL ASSESSMENT OF SAGE'S REPORT

What policies are implicated by Sage's report?

- Sexual Assault – Rape
- Sexual Assault – Fondling
- Stalking
- Dating Violence
- Sex-Based Harassment
- Sex Discrimination (Campus Safety Officer)

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RESPONDENT NOTIFICATION

- As with every respondent, be kind, empathetic, transparent, and open-minded

- Being accused of misconduct is extremely difficult

- LGBTQ+ respondents may have particular challenges:
  - Fear of being dismissed, not taken seriously, or not believed
  - Fear of being blamed as the aggressor, seen as predatory
  - Fear of being judged as deviant or abnormal
  - Sense of betrayal by member of the community
  - Concern about social isolation

- Keep in mind that LGBTQ+ relationships may look different from other relationships and participants may have fewer models for healthy relationships

- Check in about safety and support

- Be clear about respondent's rights and options

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INVESTIGATION

- Make sure investigators are informed about the specific issues, identities, and types of sexual activity involved in the case

- Investigative interviews should always be conducted kindly, transparently, and comfortably, but should also be thorough and not avoid hard questions

- Investigators must get comfortable with concepts and terminology, including knowing how to ask for clarification in a sensitive manner

- Defer to the self-identification language used by individuals (i.e, "front hole" instead of "vagina;" "queer" instead of "homosexual"; preferred names and pronouns)

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INVESTIGATING LGBTQ+ BASIS FOR CONDUCT

- Sex Discrimination and Sex-Based Harassment require the conduct to be based on sex, including sexual orientation and gender identity

- Investigation should seek evidence to answer:
  - Was the conduct *because of* the complainant's sexual orientation/gender identity?
  - Would it have occurred *but for* the complainant's sexual orientation/gender identity?
  - How were others of the *same and different* sexual orientations/gender identities treated?

- Investigators should look for evidence of overt expressions of animus based on sexual orientation/gender identity, direct comments or actions about sexual orientation/gender identity accompanying negative conduct, and subtle signs of bias

- Signs of bias can include microaggressive conduct, "dogwhistles," and negative assumptions applied only to people of a particular group

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HEARING

- Make sure hearing officer(s)/panelists are informed about the specific issues, identities, and types of sexual activity involved in the case

- Exclude evidence about "complainant's sexual interests or prior sexual conduct," including as it relates to sexual orientation and gender identity, unless:
  - Offered to prove conduct was by someone other than the respondent or
  - Involves previous sexual history between the specific parties in the case and offered to prove consent between them

- Exclude medical and mental health records, including gender affirming care, unless party consents

- Exclude irrelevant questions, especially about sensitive topics

- Maintain an appropriate atmosphere of respect and civility

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DECISION MAKING

- As in every decision, decision-makers should be fair and unbiased

- Limit consideration to the relevant evidence and the Noticed scope

- Avoid relying on stereotypes or assumptions, both negative and positive

- In writing the decision rationale, write for the parties – avoid legalese and jargon, and fully explain standards and concepts used in evaluating the evidence

- Consider the impact of the decision on the parties, especially where a party's understanding of a certain concept doesn't line up with policy

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CONTINUING TO SUPPORT LGBTQ+ PARTIES

- Check in with parties after the case is complete to discuss ongoing safety and support needs

- LGBTQ+ parties may face unique challenges and should continue to be fully supported in meeting those challenges

- Coordinate support with on-campus resources, especially if the parties prefer to disengage from the Title IX office

- Part of supporting past, current, and future parties is ensuring that general campus programming is inclusive of LGBTQ+ experiences and identities
  - Don't default to programming centering non-LGBTQ+ experiences and identities

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![11th Principle: Consent! logo]

Vision & History ⌄   Consent Propaganda ⌄   Resources ⌄

Rape Culture Pyramid

Our viral graphic, the "Rape Culture Pyramid," version 5 is Gender Neutral thanks to community feedback!!

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If used in text where hyperlinks can be used (website/social media), please include the following:
-Link for "Rape Culture Pyramid" by 11th Principle: Consent! – https://www.11thprincipleconsent.org/consent-propaganda/rape-culture-pyramid/
-Link for CC BY-NC-SA: https://creativecommons.org/licenses/by-nc-sa/4.0/legalcode

This graphic is available in high resolution PNG & PDF. Please contact us for the Adobe Illustrator file if you wish to translate or alter for non-profit use. *11th.principle.consent -@- gmail.com*

Version 5 Created by Jaime Chandra & Cervix (© September 2018)

OPEN LETTERS

Open Letter to Transformus, Ignite, and PU Communities

Open Letter to Alchemy Burn and Flashpo Artists Initiative

Open Letter to Emergence Burn

RESOURCES

About our Resources & the Stages of Cons Culture for Burn Communities

What do you consent to?

Bystander Intervention

Make Your Own Consent Education Team!

Incident Response Toolkit

Codes of Conduct & Conduct Committees

How to React to an Accusation

CONSENT PROPAGANDA!

About our Consent Propaganda

Best Consent Fliers Google Drive Folder

Toxic Purity Culture Pyramid

Rape Culture Pyramid

Non-Toxic / Healthy Masculinity Memes

S.H.A.R.E. Model for Informed Enthusiastic Consent

#Accessibility Image Description: A graphic titled "Rape Culture" that has a triangle with words and a background gradient of darker red at the top peak, orange in the center, and yellow at the bottom. On the side of the pyramid is an arrow and 3 works, explaining the the gradient. Normalization leads to Degradation which leads to Assault. The text under the pyramid explains the relationship: "Tolerance of the behaviors at the bottom supports or excuses those higher up. To change outcomes, we must change the culture. If you see something, say something! Start the conversation today." The words inside the pyramid, starting with the top and most severe: Rape, Drugging, Molestation, Stealthing (Covert Condom Removal), Contraceptive Sabotage, Victim Blaming & Shaming, Coercion/Manipulation, Threats, Revenge Porn, Safe Word Violations, Groping, Non-Consensual Photo or Video, Flashing & Exposing, Unsolicited Nude Pics, Catcalling, Unwanted Non-Sexual Touch, Stalking, Sexist Attitudes, Rape Jokes, Locker Room Banter.

History of the #11thPrincipleConsent #RapeCulturePyramid

Sometime in mid-2016, Cervix created this graphic and posted on the 11th Principle Facebook page. Eventually it went so viral that we had to remove the post because the troll harassment level was far past what we could handle. Below are the previous 4 versions of the Rape Culture Pyramid.

Version 1 created by Cervix & Jaime Chandra (Mid-2016)

Version 2 – re-designed by Kate Seewald of ActionAid / Safe Cities for Women, Original Concept by Cervix & Jaime Chandra (October 2016)

Version 3 created by Jaime Chandra & Cervix (October 2017)

Version 4 created by Jaime Chandra & Cervix (Nov 2017)

PNG Format & PDF Format

The 11th Principle: Consent! promotes awareness about Consent within the burn community (and beyond!) through demonstration, interaction and participation.

This website provides resources and materials for organizers of burns and festivals to easier promote the message of Enthusiastic Consent at their events.

Creative Commons License Attribution NonCommercial ShareAlike CC BY-NC-SA

11th Principle: Consent! via Creative Commons BY-NC-SA

WordPress Theme : Access

Applying Restorative Justice to Campus Sexual Misconduct

Emerging Practices and Lessons from Early Adopters

Kaaren M. Williamsen, PhD & Erik S. Wessel, EdD

ATIXA Conference, October 2024

What is restorative justice?
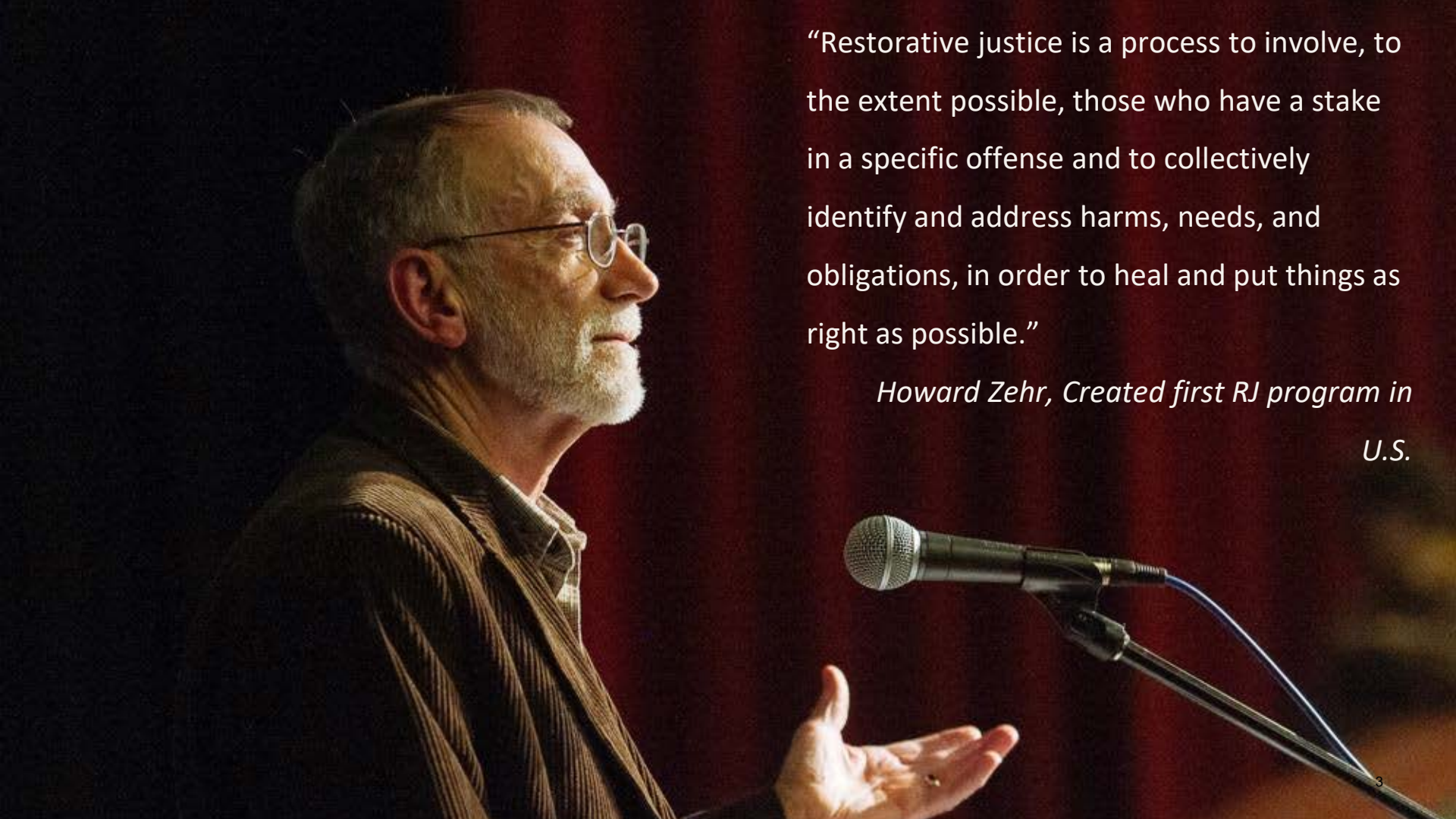
"Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible."

Howard Zehr, Created first RJ program in U.S.

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Restorative Justice

- **Philosophy and set of practices**.

- **Crime is a violation of people and relationships**, not just laws, creating needs and obligations. Restorative justice aims to involve, as much as possible, the parties most impacted by the crime" (Zehr 2002).

- **Four key principles:** inclusive decision making, active accountability, repairing harm, rebuilding trust (Karp, 2015).

- **Restorative justice for sexual offenses requires adaptation** (Koss, 2010).

Karp, D. (2015). Little Book of Restorative Justice for Colleges and Universities. Good Books.
Koss, M. (2010). Restorative Justice for Acquaintane Rape and Misdemeanor Sex Crimes. In J. Ptacek (Ed). Restorative Justice and Violence Against Women. Oxford.
Zehr, H. (2002). Little Book of Restorative Justice. Good Books.

Origins

USD Center for Restorative Justice

Three tiers of a restorative practices approach.

Support Circles
Tier 3: Re-entry

reintegrate

Restorative Circles and RJ Conference
Tier 2: Repair Relationships

respond to conflict and repair harm

Community Circles
Tier 1: Build/Strengthen Relationships

build community

Whole Campus Approach

https://restorativejustice.ucsf.edu/our-services
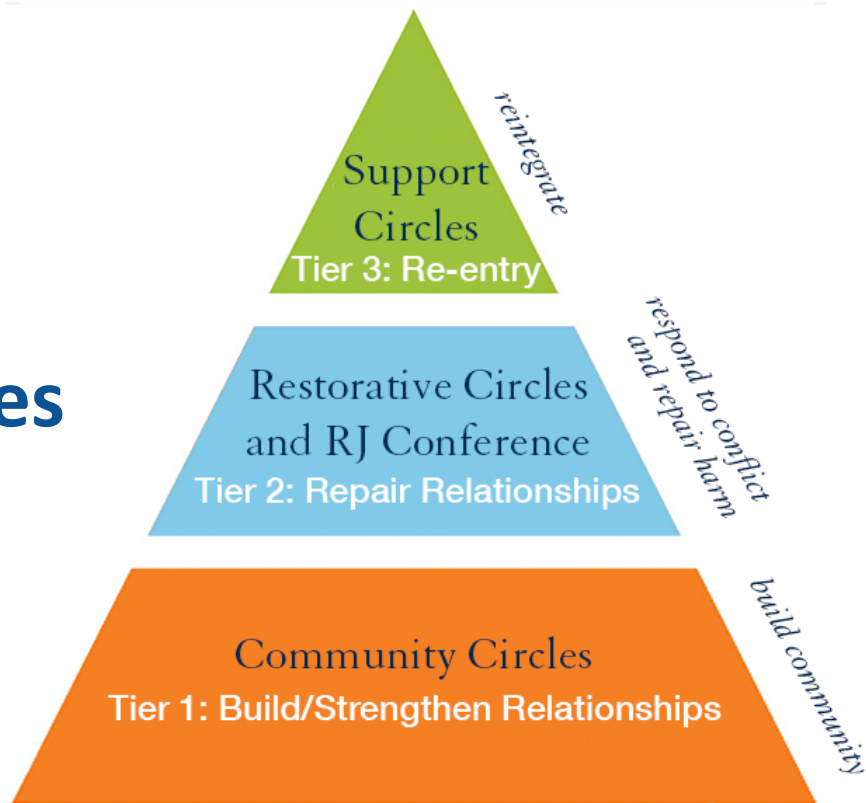
Tier 2 RJ: Asking Different Questions

Traditional Discipline

What rules were broken?

Who did it?

What do they deserve?

Respondent focused

Restorative Justice

What harm has been caused?

What can be done to make things right?

What can be done to rebuild trust?

Balanced Focus

Social Discipline Window
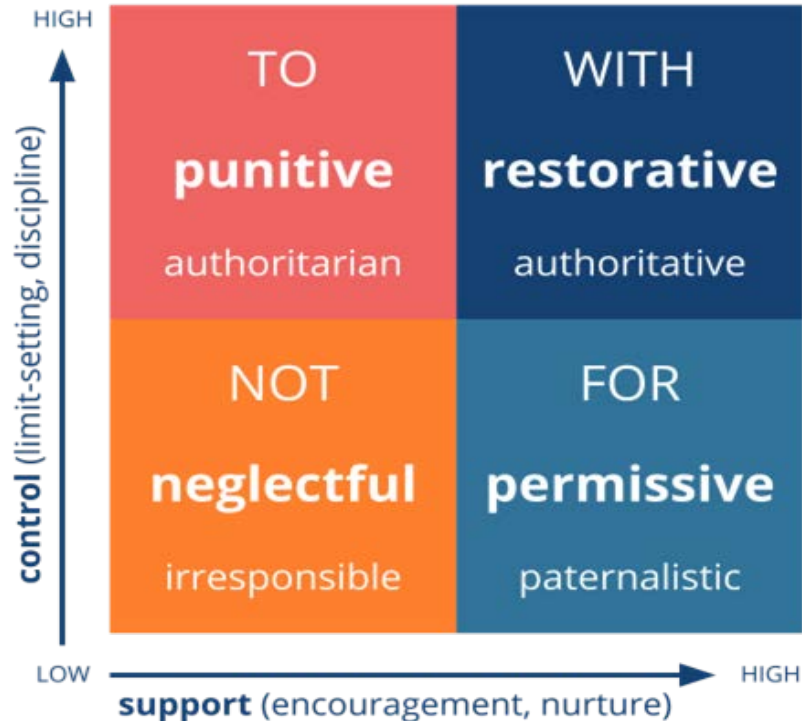
"*The fundamental premise of restorative practices is that people are happier, more cooperative and productive, and more likely to make positive changes when those in positions of authority do things **with** them, rather than **to** them or **for** them.*"

Ted Wachtel from "Defining Restorative"
International Institute for Restorative Practices

Growing interest in RJ
for campus sexual misconduct

Searching for Alternatives

It's hard not to wonder now, from my perch of more than a quarter-century later, staring at the pinched look on my face in the photos from that rainy graduation morning, why there hadn't been a third option besides either pressing charges or doing nothing, neither of which felt like an appropriate reaction to what had happened to me in that bed.

Deborah Copaken Kogan, The Nation, 2015

Kogan, D.C. (2015). Entering the Mind of My Rapist: An Exercise in Extreme Empathy. What would it be like, I suddenly wondered, to put myself in the head of my rapist? The Nation (May 13).

OP-ED CONTRIBUTOR

I'm a Campus Sexual Assault Activist. It's Time to Reimagine How We Punish Sex Crimes.

By Sofie Karasek

Feb. 22, 2018

Over time, many student activists have become disillusioned with an emphasis on punitive justice — firings, expulsions and in some cases, prison sentences. We've seen firsthand how rarely it works for survivors. It's not designed to provide validation, acknowledgment or closure. It also does not guarantee that those who harmed will not act again.

As the campus sexual assault movement, and now #MeToo, has made clear, sexual injustices, from harassment to rape and assault, are deeply ingrained in American society, involving people from all walks of life. We cannot jail, fire or expel our way out of this crisis. We need institutional responses to sexual harm that prioritize both justice and healing, not one at the expense of the other.

Karasek, S. (2018). I'm a Campus Sexual Assault Activist. It's Time to Reimagine How We Punish Sex Crimes. New York Times, Feb. 22.

Early Adopters: motivated to expand options

In looking at the number of reports that we were getting compared to the number of students who wanted to go through an investigation process… we were losing a lot of people. They wanted something to be done, but they did not want to go through a formal investigation process for any number of reasons… .

[E]ven… when a student goes through the investigation process, goes through a hearing and receives an outcome that on paper is favorable to them, that does not give them a sense of justice. *And I think that's true for both complainant parties and respondents…. The investigation process doesn't easily allow for any sense of justice or true resolution for the parties who are going through it. It certainly serves the due process requirements of Title IX, but not the necessarily the human side of it for parties going through it.*

(Former TIXC and Dean of Students)

McMahon, S. M., Williamsen, K. M., Mitchell, H. B., & Kleven, A. (2022). Initial reports from early adopters of restorative justice for reported cases of campus sexual misconduct: A qualitative study. *Violence Against Women*

Williamsen, K.M. & McMahon, S.M. (2023). *A Restorative Approach to Campus Sexual Misconduct* in K.M. Williamsen & E.S. Wessel (Eds) Applying Restorative Justice to Campus Sexual Misconduct. Stylus

Reporting and Adjudication

834 — Female Students

284 (34%) — Sexually Assaulted

16 (6%) — Reported to Campus

5 (2%) — Filed Formal Complaints
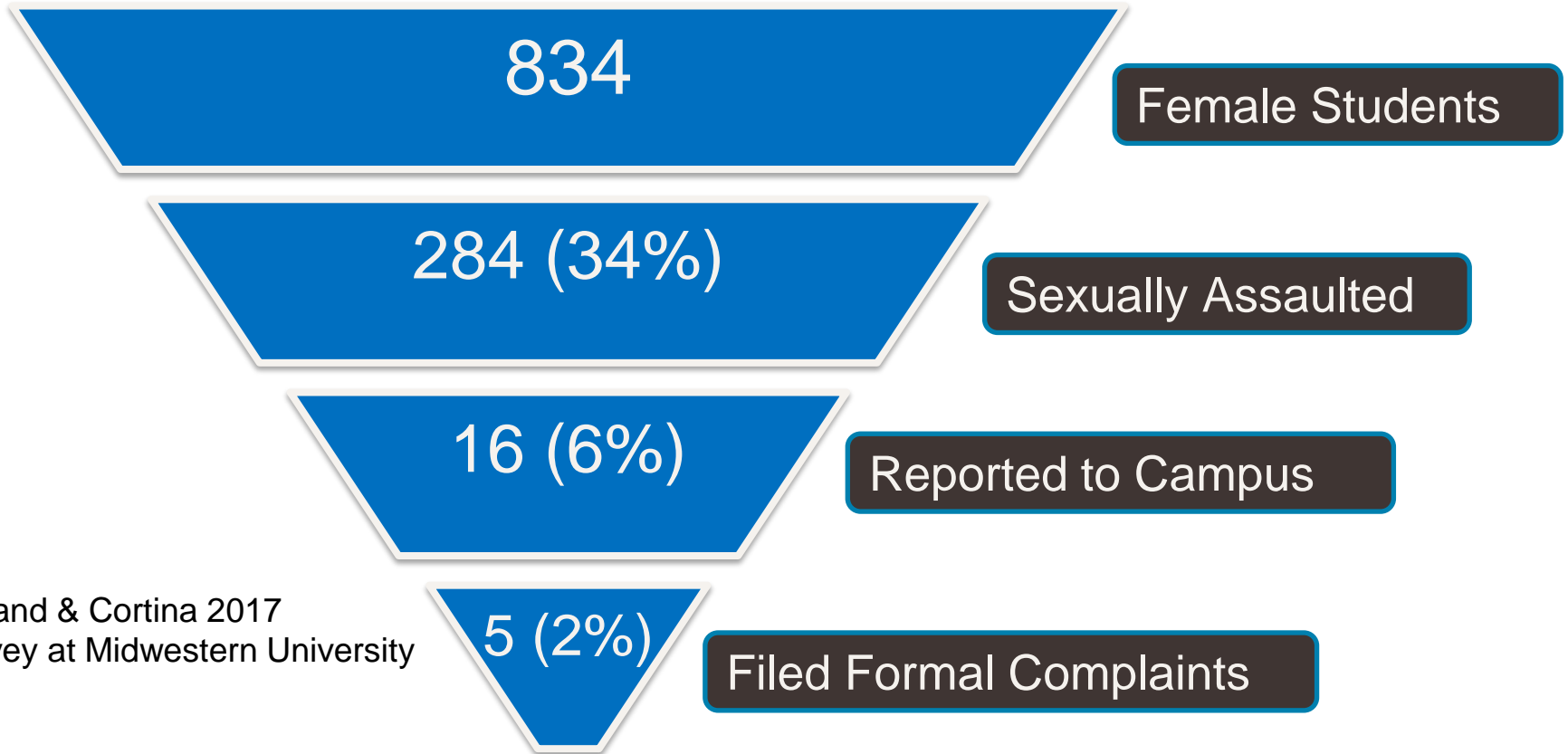
Holland & Cortina 2017
Survey at Midwestern University

Early Adopters: Motivating Factors for Adding RJ

Primary Motivating Factors

1) Dissatisfaction with the formal process AND a desire for a better experience for students,

(2) A desire to respond to student requests for an alternate process, and

(3) A campus champion to bring it from an idea into fruition.

Supporting Factors

1) Community interest and buy-in,

2) Leadership support, and

3) Evolving Title IX and legal landscape; new regulations allowing "informal resolutions."

McMahon, S., Williamsen, K., Mitchell, H., & Kleven, A. (2022) "Initial Reports from Early Adopters of Restorative Justice for Reported Cases of Campus Sexual Misconduct: A Qualitative Study." Forthcoming in Violence Against Women

Early Adopters Study (2022)

Study of 10 early adopters of restorative justice for campus sexual misconduct, representing 7 institutions and 1 former administrator now independent consultant.

- RJIA -- Restorative Justice Informed Approaches

- Terms varied:
  - Alternative Resolution
  - Adaptable or Adaptive Resolution
  - Informal Resolution

- Facilitators:
  - Designated restorative facilitator
  - Student conduct officer
  - Ombudsperson
  - Title IX Coordinator
  - Faculty/staff volunteers
  - External consultant
  - Senior student affairs professional

McMahon, S. M., Williamsen, K. M., Mitchell, H. B., & Kleven, A. (2022). Initial reports from early adopters of restorative justice for reported cases of campus sexual misconduct: A qualitative study. *Violence Against Women*

Williamsen, K.M. & McMahon, S.M. (2023). *A Restorative Approach to Campus Sexual Misconduct* in K.M. Williamsen & E.S. Wessel (Eds) Applying Restorative Justice to Campus Sexual Misconduct. Stylus

Early Adopters - Practices & Modality

Early adopters used a variety of practices in their Restorative Justice Informed Approaches (RJIA). These practices informed by RJ philosophy and practices as well as mediation, dispute resolution, various conflict resolution practices.

Practice

- Circles

- Dialogues

- Conferences

- Shuttle agreements

Modality

- In person

- Via Zoom

- Shuttle (no direct contact btwn parties)

- Combination

McMahon, S. M., Williamsen, K. M., Mitchell, H. B., & Kleven, A. (2022). Initial reports from early adopters of restorative justice for reported cases of campus sexual misconduct: A qualitative study. *Violence Against Women*

Williamsen, K.M. & McMahon, S.M. (2023). *A Restorative Approach to Campus Sexual Misconduct* in K.M. Williamsen & E.S. Wessel (Eds) Applying Restorative Justice to Campus Sexual Misconduct. Stylus

Early Adopters - Basic Restorative Flow

➜ Complainant request & Title IX Coordinator approval

➜ RJIA facilitator intake with each party

➜ Preparation with each party

➜ Voluntary restorative engagement

➜ Finalizing restorative agreement (if agreement reached)

➜ Title IX Coordinator approves agreement

➜ RJIA facilitator follow up with the parties

McMahon, S. M., Williamsen, K. M., Mitchell, H. B., & Kleven, A. (2022). Initial reports from early adopters of restorative justice for reported cases of campus sexual misconduct: A qualitative study. *Violence Against Women*

Williamsen, K.M. & McMahon, S.M. (2023). *A Restorative Approach to Campus Sexual Misconduct* in K.M. Williamsen & E.S. Wessel (Eds) Applying Restorative Justice to Campus Sexual Misconduct. Stylus

Early Adopters -- Addressing Concerns

For people who maybe are having a tough time getting institutional buy-in or even talking with parents or support people or attorneys . . . **reminding everyone that by including an alternative process or restorative justice, you're adding more options. You're not taking them away** *. . . just because this is an option doesn't mean that all of our cases are going through that or investigation is now off the table. No, we're just saying, you know, for those that feel an investigation is not the right form of addressing the behavior, here's another option that might be right for you.* (Title IX Coordinator)

McMahon, S. M., Williamsen, K. M., Mitchell, H. B., & Kleven, A. (2022). Initial reports from early adopters of restorative justice for reported cases of campus sexual misconduct: A qualitative study. *Violence Against Women*

Williamsen, K.M. & McMahon, S.M. (2023). *A Restorative Approach to Campus Sexual Misconduct* in K.M. Williamsen & E.S. Wessel (Eds) Applying Restorative Justice to Campus Sexual Misconduct. Stylus

Early Adopters -- Addressing Concerns

*I went to this student organization and somebody was like "This is easy. This is meaningless. RJ is the easy way out." And I said to them, "OK, let's think about the things that have been hardest for you in your student experience or in your life. The hardest thing you ever had to do, like to volunteer, check out some community service hours, or write a paper, or that kind of thing, or go to a meeting? And they were like, "No, no, no, no." And I said "OK. What are the harder things?" And then they started to come up with these human pieces, like grief, or forgiveness, or confronting a fear. And all of those things happen in an RJ circle. **So the emotional power, the emotional labor that's required of sitting face to face with somebody who you hurt or who harmed you. It's absolutely not an easy way out, and justice can be fulfilled through restorative justice.** . . . having not participated, they didn't know that anything, even in theory suspension or expulsion could come from an RJ circle; anything is on the table. It's not just, you have the conversation and life goes on. There's a process. There's a process and then an outcome, and then life goes on. (Campus Administrator)*

McMahon, S. M., Williamsen, K. M., Mitchell, H. B., & Kleven, A. (2022). Initial reports from early adopters of restorative justice for reported cases of campus sexual misconduct: A qualitative study. *Violence Against Women*

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Early Adopters: Recommendations on How to Start

(1) Start with what you have;

(2) Build community buy-in;

(3) Provide leadership through vision, community building, creativity, ongoing program evaluation, and remembering the why.

McMahon, S., Williamsen, K., Mitchell, H., & Kleven, A. (2022) "Initial Reports from Early Adopters of Restorative Justice for Reported Cases of Campus Sexual Misconduct: A Qualitative Study." Forthcoming in Violence Against Women

Early Adopters: Recommendations

It's also important for those in the Title IX worlds to [not] be afraid to get creative and don't be afraid to look outside of the law and outside of the box. (Title IX Coordinator)

I think it's really important to learn as you go from the people that you're serving…. This process is not for me, it's for our students or faculty and staff… I want to make sure that we're doing right by them and having their feedback is important. (Title IX Coordinator)

McMahon, S., Williamsen, K., Mitchell, H., & Kleven, A. (2022) "Initial Reports from Early Adopters of Restorative Justice for Reported Cases of Campus Sexual Misconduct: A Qualitative Study." Forthcoming in Violence Against Women

Adaptable Resolution

for Sexual and Gender-Based Misconduct in Higher Education

Adaptable Resolution: Defined

Adaptable Resolution

Adaptable Resolution is a **voluntary** and **restorative process** <u>used to address harm</u> within the community stemming from sexual and gender-based misconduct.

Through **shared decision-making** and **active engagement**, Parties, alongside trained facilitators, are invited to engage in a spectrum of pathways designed to promote agency, equity, and collaboration. These pathways create opportunities for meaningful accountability, repair of harm, and education to prevent future harm.

Adaptable Resolution: Defined in Policy

University of Michigan Policy Language:

"Adaptable Resolution: Adaptable Resolution, conducted through the Office of Student Conflict Resolution ("OSCR"), includes **a spectrum of facilitated, structured, and adaptable processes that seek to identify and meet the needs of the COMPLAINANT** *while providing an opportunity for the RESPONDENT to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the COMPLAINANT and/or the UNIVERSITY COMMUNITY. "*

This resolution pathway offers multiple potential modes of voluntary participation described in further detail in Section VII. **Adaptable Resolution does not include an investigation, hearing, or formal disciplinary action.** *However, remedies may include any appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by the TITLE IX COORDINATOR. The University will strive to complete the Adaptable Resolution process within 90 calendar days from the time both parties have signed an Agreement to Participate in Adaptable Resolution.*

Adaptable Resolution:

OSCR AR Operational Core Principles	
Adaptable Resolution is/includes: ● Voluntary ● Expertly facilitated ● Intentional and structured in design ● Maintenance of student agency ● Equity-focused process ● Space to be heard ● Active engagement ● Shared decision-making ● Opportunity to identify and accept responsibility for repair of harm ● Accountability for agreed-upon outcomes ● Focus on prevention of further harm	Adaptable Resolution does not include: ● [Investigative procedures](#) ● A University determination of a policy violation ● A University determination of responsibility ● A University determination of sanctions ● Disciplinary outcomes (where not otherwise agreed to)

OSCR AR Facilitative Key Principles

Guard Against Further Harm
- Protect against coercion
- Strive to create a space that does not create further harm

Ensure Agency
- Express, clarify, and ensure fully informed access to information and one's agency

Extend Multipartial Support
- Cultivate an environment where Respondent(s) are accountable within a context of support
- Treat all participants with dignity and respect
- Allow space for vulnerability and honesty to understand and resolve harmful thoughts, feelings, and behaviors

Invite Meaningful Accountability
Create space for the Respondent(s) to
- Name harm – move from denial
- Acknowledge harm, work toward empathy, and understand impacts – move from minimizing
- Accept responsibility for repairing harm, working toward change – move from rationalizing and justifying

Establish Trauma-Informed Environments
- Establish safety, trustworthiness & rapport, support, collaboration, empowerment, and identity-consciousness

Prioritize Empathy & Affirmation
- Acknowledge, empathize, and affirm each individual's expressed experience of harm
- Believe that we are all capable of repair

Encompass Community Care
- Identify and address the needs of community members
- Identify and address obligations and opportunities for members of the community to seek and support social change around sexual harm

Empower Repair and Healing
- Empower through choice
- Create space conducive to repair

Adaptable Resolution: Model

Adaptable Resolution: Stages

1 Exploration

- Consultations (Overview)
- Formal Complaint & Title IX Coordinator Approval
- Intakes (Perspective/Needs Sharing)

2 Participation Agreement

3 Facilitation

Not Face to Face
- Restorative Shuttle Agreement
- Community Supported Accountability Circle

Face to Face
- Facilitated Dialogue
- Restorative Circle
- Restorative Conference

4 Resolution Agreement

- Parties waive the right for Investigative Resolution
- Parties agree to comply with the terms of the agreement

Adaptable Resolution: Intake

Perspective Sharing (please share what you're comfortable with)
- Can you share what happened?
  - What were you feeling/thinking about at the time?
  - What have you felt or thought about since?
  - What impact did this incident have on you, if any? (can be helpful to think about impacts in terms of dimensions here: emotional, mental, physical, learning/academic, intimate relationships, friendships, finances)
    - Who else is impacted? How?
  - How has this situation impacted your identity/sense of self?
  - Strengths-based, What/who has helped you process?
  - Where is the harm and where is the potential healing?

Adaptable Resolution: Intake

Desired Outcomes
- What are you hoping for from this process? Needs/wants?
- How can I/we make this better?
- What are the short/intermediate/long-term steps for delivering on wants and needs?
- What available resources exist? Which resources could be developed?
- Needs can also include (physical needs with food, clothing, shelter, safety, and water, social needs of belonging and affection, individual needs, knowledge and self expression)
  - Also answers, recognition of wrong, safety, restitution and repair, to find significance or meaning in the tragedy
- What would you consider a success/most helpful? What do you want, not want?

The Needs-Focused Resolution Agreement:

1. **Centering the needs** of those most directly harmed.

1. **Identifying a process** which all parties agree to in order to voluntarily explore potential for repair.

1. **Identifying the elements of accountability** that are possible to meet expressed needs.

2. **Accountability frameworks** employed to encourage follow-through.

Adaptable Resolution: Agreements

Elements to Agreement:
1. Process is voluntary; Any party may discontinue at any time.
2. Participation requires preparation
3. Process is not disciplinary
4. Process may be discontinued by facilitator
5. Parties agree to good faith participation and to not use information obtained in another university process or legal proceeding.
6. Parties understand that the university may retain records.
7. Information shared in the AR process will not result in a separate or subsequent disciplinary investigation.
8. Any agreement reached is understood to satisfactorily remedy the effects of the harm.
9. All agreements must be approved by the Title IX Coordinator.
10. Parties waive the right to an investigative resolution when an AR agreement is reached.
11. Where no agreement is reached the matter is referred back to the Title IX Coordinator.

This Adaptable Resolution Agreement is entered into by:

[   ], Respondent

[   ], Complainant

TERMS OF THE RESOLUTION AGREEMENT AS MUTUALLY AND VOLUNTARILY AGREED UPON:

1. Outcome Narrative

1. Outcome Narrative

I am voluntarily entering into this resolution agreement, and in doing so I waive my right to an investigative resolution. By signing this resolution agreement I affirm that the terms of the agreement (along with any other supportive or interim measures in place) provide resolution of this matter. Once the Title IX Coordinator or designee approves this agreement, the parties are bound by its terms. By signing below, I acknowledge that I have read, understand, and agree to the above aspects of this resolution agreement.

_____   _____

Participant Name (Signature)   Date

STARRSA: Science-Based Treatment, Accountability, and Risk Reduction for Sexual Assault

Preventing Recurrence of Sexual & Gender-Based Misconduct

STARRSA AP: Participation Considerations

STARRSA AP is most useful when:

- There is a baseline appreciation for wrongfulness of sexual misconduct.
- There is a lack of knowledge about consent
- Limited circumstances of harm and generally uncharacteristic
- Individual is generally pro-social and exhibits empathy
- Individual generally associated with a positive peer group
- Individual is motivated toward prevention of further instances of sexual misconduct.

STARRSA AP: Baseline Knowledge Assessment

- The BKA assessment tool is a **check on the appropriateness of STARRSA** participation

- The BKA **assessment tool** aids the STARRSA facilitator in determining the most appropriate module grouping for the specific needs of the individual.

- **Facilitative Framing:** "I am going to ask you some questions to assess your baseline knowledge of a variety of topics related to relationships and sex. Please answer honestly. To begin, I will ask you a few questions to give you space to share what happened and how you feel. Now that we have explored what the STARRSA AP program is, I am going to ask you some questions about what you want to get out of this program and provide some education about motivation. Then I will ask other questions to assess your knowledge about a range of topics related to relationships and sex."

STARRSA AP: Participation Agreement

Office of Student Conflict Resolution I University of Michigan
100 Student Activities Building I 515 East Jefferson I Ann Arbor I MI I 48109
Build Trust. Promote Justice. Teach Peace.

The purpose of this Participant Agreement form is to inform participants about the Science-based Treatment, Accountability, and Risk Reduction for Sexual Assault (STARRSA) Active Psychoeducation (AP) program provided by the Office of Student Conflict Resolution (OSCR) at the University of Michigan- Ann Arbor. You are receiving this Participant Agreement form because you have **[been recommended, been sanctioned, agreed]** to participate in and complete the STARRSA AP Program.

- Program Goals and Objectives
- STARRSA is not therapy
- Confidentiality
- Description of Program
- Who to contact with questions

___ I have had the opportunity to ask questions about STARRSA Active Psychoeducation
___ I understand that this is not therapy, and I understand that this is not confidential
___ I agree to participate in this program at the University of Michigan

_____   _____
Participant Name (Signature)   Date

STARRSA: Modules

- **Module 1:** Orientation, Assessment, and Psycho-Educational Planning
- **Module 2:** Sexual Behavior & Sexual Misconduct
- **Module 3:** Focus on Socialization & Sexualization in Society
- **Module 4:** Understanding & Resolving Risks for Sexual Abuse
- **Module 5:** Exploring Masculinity
- **Module 6:** Consequences of Sexual Abuse & Effects of Sexual Misconduct on Victims/Survivors and Others
- **Module 7:** Behavior is a Choice - Choosing Wisely
- **Module 8:** Healthy Relationships
- **Module 9:** Making Amends and Making a Difference
- **Module 10:** Wrapping up & Going Forward
- **Module 11:** Sexual Citizens (Based on text by Jennifer HIrsch, Shamus Khan)

Closing Considerations

- Partnership

- Policy Considerations

- Preventing Harm with Guardrails

Culture of Partnership:

Figure 2.1. Toward a culture of partnership.

Toward a Culture of Partnership

Competitive   Disconnected   Aware   Cooperative   Coordinated   Collaborative

Turf   Trust

Impact through Partnerships

Hallmarks of Deeper Partnerships
✓ Built on Relationships and Reciprocity
✓ Shared Accountability–Risk and Reward
✓ Aligned and/or Integrated Activities
✓ Expanded Reach and Impact

Note. Developed by Mary Jo Callan and the Ginsberg Center at the University of Michigan.

Key Policy Considerations:

Policies which most effectively employ multiple pathways for effective resolution of sexual and gender-based harm need to attend to multiple factors, including:

- Decision-making data
- Communication (parties, partners, public)
- Complainant's request
- Respondent's consent
- Power and Equity
- Escalation of concern (i.e. history of conduct concern)
- Fact patterns of violence indicating potential for further community harm.
- Mitigation of further harm
- Jurisdictional consideration
- Stakeholder consensus to proceed

Recommended Guardrails:

Policies designed to prevent recurrence and mitigate further harm must attend to:

- Guarding against actual and/or perceived coercion
- Guaranteeing equity of process, *not* outcomes
- Intentionally built in expert discretion (Title IX Coordinator, Resolution Facilitator)

Recommendation:
Build WITH your community. Build incrementally. Build as trust grows.

October 30, 2024

cohenseglias.com

Restorative Practices and Title IX: Perfect Together

13th Annual ATIXA Conference

MEET THE PRESENTERS

Ashling A. Ehrhardt

Chair, Title IX Group
Cohen Seglias

Sydney Smith Forquer

Associate, Title IX Group
Cohen Seglias

Allison Wisniewski

Over 25 years in Higher Education, including as Title IX Coordinator, Dean of Students & Director of Residence Life

SESSION GOALS

- Understand Restorative Justice Practice

- Describe key concepts for restorative practices and application to Title IX

- Reflect on how these practices can impact Title IX processes and parties

SESSION GOALS

Apply these practices to your community, both proactively and reactively

- Proactively

  – Build community between students, faculty, and staff

  – Importance of language in Title IX policies and procedures

  – Restorative reintegration after Title IX findings

- Reactively

  – Restorative justice conferencing

  – Informal Resolution

TAKE CARE OF YOU

Our work is challenging so if you need to step out, we understand.

WHAT IS RESTORATIVE JUSTICE?

A process using the principles of participation, empathy, problem solving and respectful dialogue to build healthy and equitable relationships between people and to repair relationships when conflict occurs.

- Long history of family circles in indigenous communities

- Aim to develop community and manage conflict by repairing harm and restoring relationships

- Working with those involved to reach a resolution, rather than coming to a resolution that happens to those involved

- Accountability and support

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LISTENING DEEPLY ENOUGH TO BE CHANGED BY WHAT YOU LEARN

Sustained dialogue (SD)

- A deliberate, patented, and repeatable peace process employed to transform difficult relationships and move toward resolution in conflicts between groups. Famously used in various political processes in South Africa, Ireland, Middle East and various other international conflicts achieved success in over **400,000 dialogues**.

- In 1999, a set of students at Princeton University began using the process to solve deep-seated issues around race relations and continue to employ SD on-campus today.

- Recently, SD was used in a corporate setting to address employee engagement. After 10 weeks of dialogue, the number of employees who felt they could bring their full selves to the workplace doubled from 40% to 80%.

WHAT IS RESTORATIVE JUSTICE?

"Justice cannot be for one side alone, but must be for both."

– Eleanor Roosevelt

"A child who is not embraced by the village will burn it down to feel its warmth."

– African Proverb

"You never really understand a person until you consider things from his point of view, until you climb inside of his skin and walk around in it."

– Harper Lee

OTHER CONSIDERATIONS

- Must create community first

- Students must connect with and trust you

  - What is your community like?

  - Is it safe?

  - Are staff safe?

  - Is it a brave space?

  - Will students want to be restored if there is a separation?

IS RJ REALLY PERFECT FOR TITLE IX?

"Some argue that [RJ] may trivialize violence against women, revictimize the vulnerable, and endanger the safety of victim-survivors. On the other hand, ... it may enable us to hear their stories more holistically, offering greater control and validation, and reduce victim-blaming ... [and] may also provide an additional opportunity to secure some form of justice."

'I Just Wanted Him to Hear Me': Sexual Violence and the Possibilities of Restorative Justice. Clare McGlynn, Nicole Westmarland and Nikki Gooden. Journal of Law and Society, vol. 39, no. 2 (June 2012).

SIDE BY SIDE

Restorative Resolution

- Focus on harms and needs

- Storytelling and listening

- Finding collaborative solutions

- Supportive

Investigative Resolution

- Focus on fact-finding and sanctions

- Determination of responsibility

- Assessing creditability

- Adversarial

PROACTIVE RESTORATIVE PRACTICES

Importance of language in Title IX Policy & Informal Agreements

- Is it restorative? Collaborative? Connected?

- Is there language that does not support that?

- Are protocols/systems punitive?

Restorative Reintegration

- What are ways we reintegrate after a Title IX finding?

- Reintegration meeting

- How do we not cause shame when you return to community?

- Lack of community among staff will translate to students!
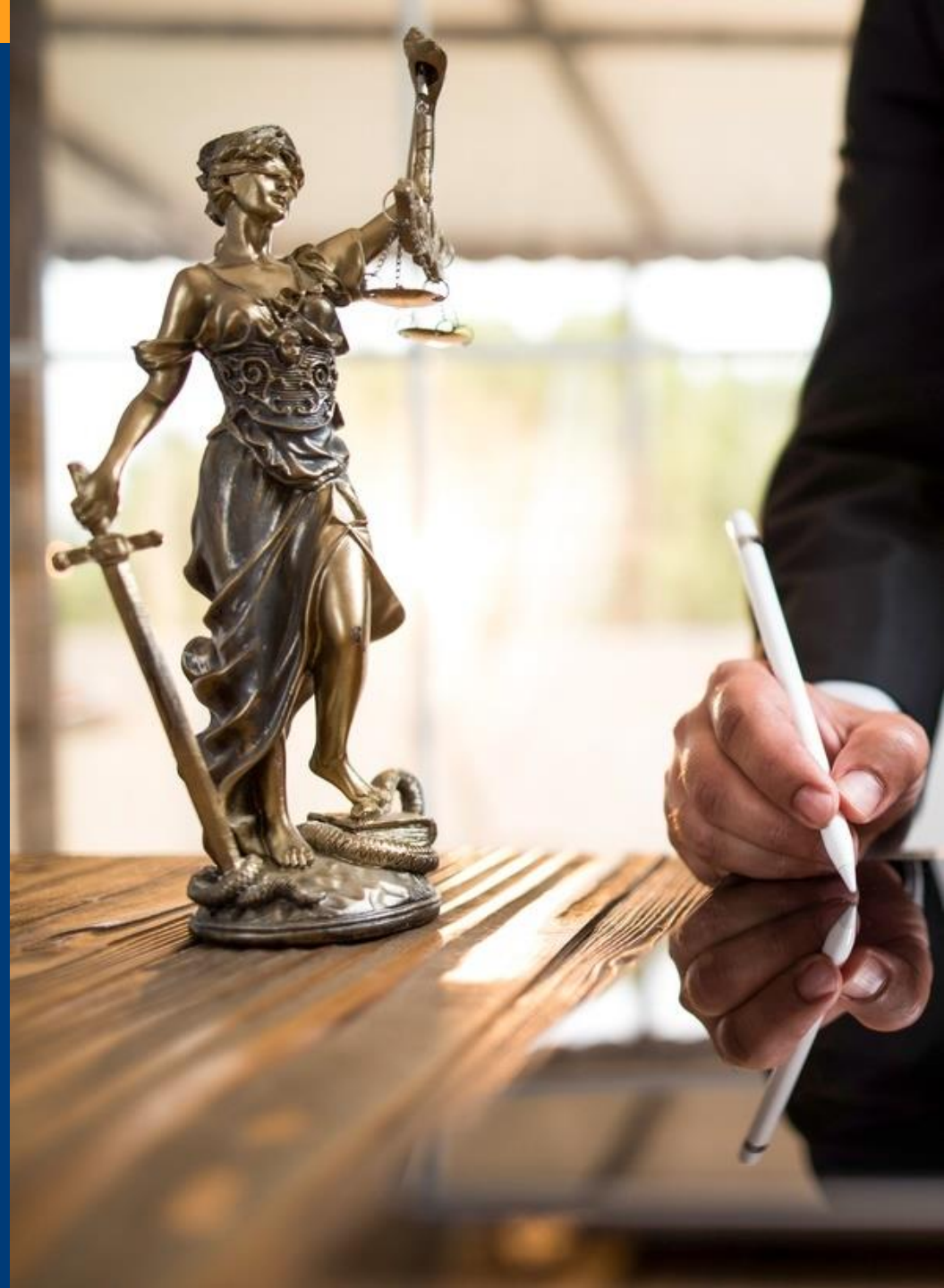
HOW DOES IT WORK IN SCHOOLS?

- Alternative to investigation/adjudication model

  – Also includes Informal Resolution

- Resolve conflicts

- Create solutions that have input from those affected, the school, and the person at fault

- Make some proactive suggestions on how to implement

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STEPS TO A RESTORATIVE JUSTICE CONFERENCE

1. Pre-conference

2. Conference

3. Agreement

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Steps to a Restorative Justice Conference

1. **Pre-Conference**

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PRE-CONFERENCE

- Each party + support person

- Begin with check-in question

    – Based on the weather, how are you feeling?

    – What is your best memory with [other person]?

    – What is something you enjoyed about [class or teacher]?

- "What happened?"

- Focus on root causes

    – Be present without trying to problem solve

    – Acknowledge feelings

    – Check-out question

PRE-CONFERENCE

Importance of pre-conference

- Explain the conference

  - No surprises

  - Discuss everything, including questions to be asked

- Multiple pre-conference meetings, if needed

Learn one party does not want to do the conference

- Result? **No conference.**

- May never get to a conference

IS A CONFERENCE APPROPRIATE?

- Has the person who caused harm admitted to the offense?

- Has the incident adversely affected or harmed anyone?

- Is there a need to repair the harm?

- Do those involved want to participate?

- Is there a disability that needs to be considered?

- Has this issue already been addressed restoratively?

- Is it inappropriate to address longstanding abuse?
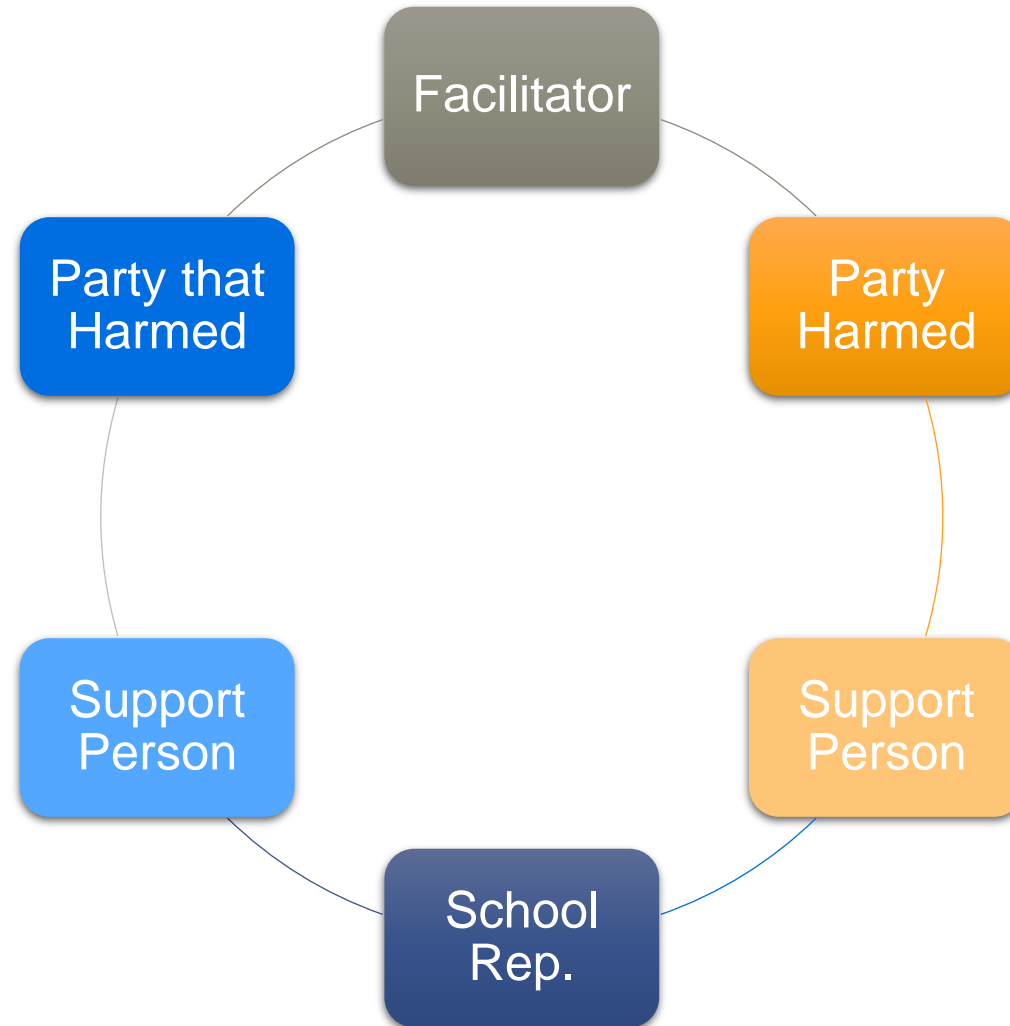
Steps to a Restorative Justice Conference

2. Facilitating a Conference

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RESPONSIBILITIES OF FACILITATOR

- Listen

- Withhold judgement

- Don't guide discussion

- Ensure equal seating and equal voice

FACILITATING A CONFERENCE

ORDER OF SPEAKING

Initial Discussion

1. Person who caused harm

2. Main person harmed

3. Additional persons harmed

4. School representatives (if applicable)

5. Supporter of person harmed

6. Supporter of person who caused harm

7. Person who caused harm

Agreement

1. Person harmed

2. Person who caused harm

- Verify agreement contents

- Step away to finalize agreement

Steps to a Restorative Justice Conference

3. **Agreement**

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AGREEMENT

- RJ Alternative Agreement is written prior, reviewed, and used a guide.

- At the end of discussion, both parties sign the agreement.

- This is the final step in a successful process.

What happens if a conference is inappropriate or unsuccessful?

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CONFERENCE ALTERNATIVES

Restorative Sanctions

- Community Projects

- Written Apology

- Research Paper (age appropriate)

- Training Modules

- Restitution

- Counseling

Impact Statements

Conflict Resolution Conference

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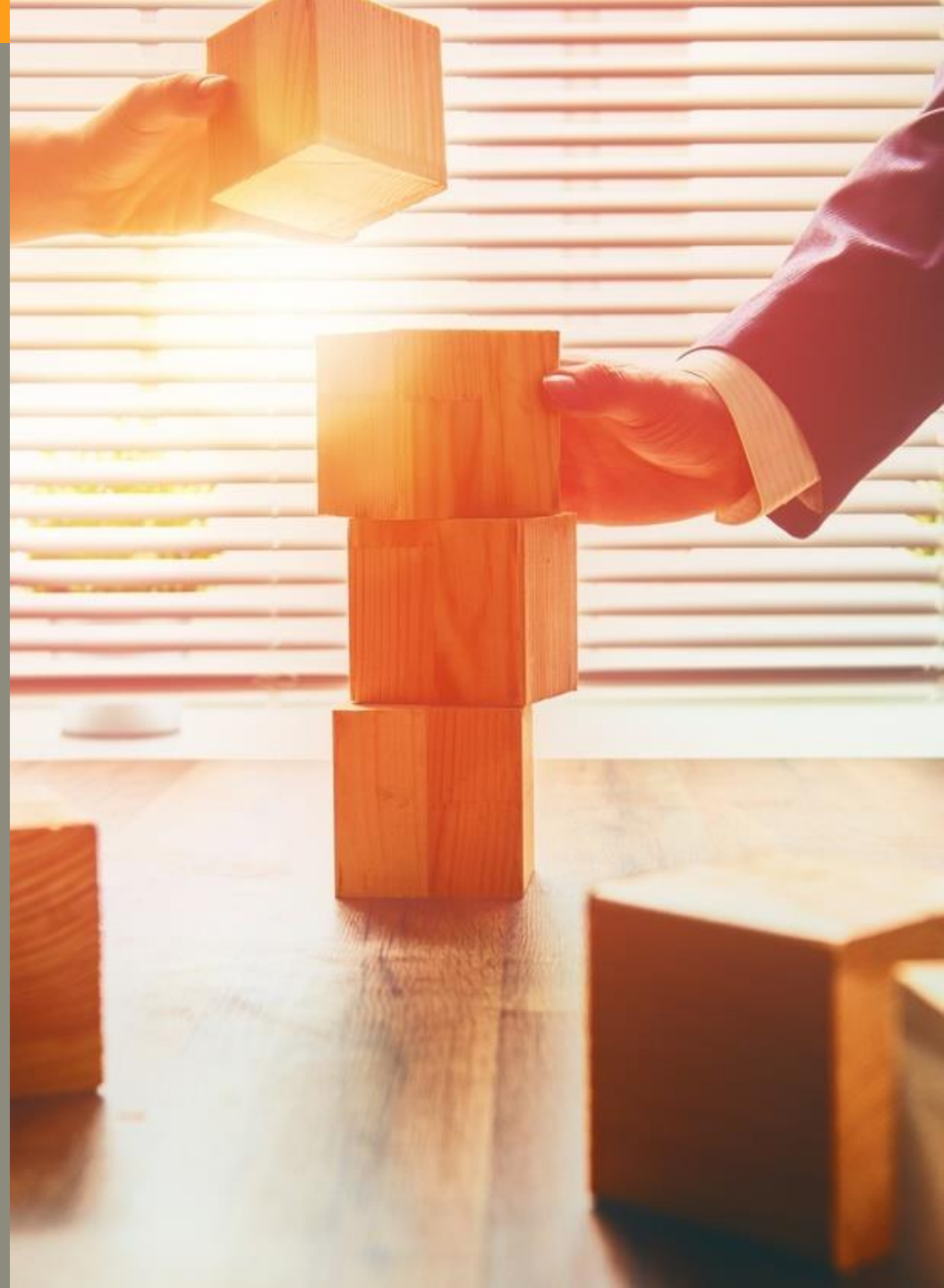
CONFLICT RESOLUTION CONFERENCE

- What it is

- How it differs from a Formal Conference

- When best to use

Informal Resolution

Geared toward higher education but can also be helpful for K-12

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INFORMAL RESOLUTION

- A mutual and voluntary agreement between the parties involved in an allegation of sexual harassment or other sexual misconduct.

- A powerful Title IX and restorative practice tool
  - Allows parties a say in outcome
  - Can avoid cross-examination and hearing
  - Saves time and resources
  - Trauma informed
  - Student centered
  - Avoids protracted formal process
  - Reduces stress

TYPES OF INFORMAL RESOLUTION

- Facilitated Dialogue

- Restorative Circle

- Negotiated Agreement

NITTY GRITTY OF REACHING A RESOLUTION

Options for who guides the process

- Parties/Advisors in the driver's seat

- TIXC as the go-between

- Another neutral option

- Case studies from all options

Sanctions

- How to respond to sanctions suggested by parties/advisors

- Whether school should suggest certain sanctions

- Restorative justice options

  – What these options look like

  – How to implement

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NITTY GRITTY OF REACHING A RESOLUTION

Creative Out-of-Box Sanctions

Payments

- Medical expenses

- Legal fees

- Others

NITTY GRITTY OF REACHING A RESOLUTION

Supportive measures? YES!

- Always available to parties, formal **AND** informal

- Examples of supportive measures:

    - Counseling

    - No Contact Orders

    - Deadline extensions / changes to work or class schedules

    - Increased security/campus escort services

Practice Tip

- Make it clear in the Notice of Allegations that parties will receive supportive measures, no matter what option they choose

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INFORMAL RESOLUTION AGREEMENT

- How criminal charges could affect a resolution

- Written resolution

  - K-12

  - Higher Education

- Best practices for who drafts the resolution agreement

INFORMAL RESOLUTION AGREEMENT

- Terms to be included

- Confidentiality

- Dismissing complaints with or without prejudice

- No contact orders/agreements

  – While enrolled or formally connected with school

  – What happens after graduation or during a separation from school?

- School's role in reviewing and approving it

  – Best practices for who approves and executes

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INFORMAL RESOLUTION AGREEMENT

Specifics to include:

- What the parties have agreed to

- A consequence that may apply if parties do not abide by terms

- What the student records will indicate

  – Any further allegations of misconduct

  – Student conduct / employee discipline

  – Background check

- List of people the outcome will be shared with

INFORMAL RESOLUTION AGREEMENT

Specifics to include:

- Any other terms agreed to (confidentiality, non-disparagement, no contact agreements, *etc.*)

- Acknowledgment that parties entered into terms voluntarily

- No appeal rights

- No formal process once signed

Questions?

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PALLAS GREENHALL & FURMAN PC

CONTACT INFORMATION

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Learning Objectives

1. **Understand the intersection of Title IX and academic medicine**: Participants will learn how Title IX and civil rights principles apply within medical and health professions education settings and the role these play in preventing and addressing mistreatment.

2. **Explore the role of collaboration in mitigating learner mistreatment**: Participants will gain insight into the partnership between UNM Health Sciences Learning Environment Office (LEO) and Title IX, exploring how shared protocols, data, and resources foster a holistic approach to addressing harassment and discrimination.

3. **Analyze the impact of data-informed prevention strategies**: Participants will examine how longitudinal data and trends from both LEO and Title IX are used to develop targeted interventions and preventive measures for learner mistreatment in medical and health professions education.

Learning Objectives

4. **Apply trauma-informed approaches to case management**: Participants will be introduced to trauma-informed practices that LEO and Title IX employ when managing cases of harassment and mistreatment, ensuring confidentiality and providing tailored supportive measures.

5. **Engage with case studies to understand complex collaborations**: Participants will work through real-world case studies to identify effective strategies for managing cases collaboratively, understanding both the benefits and challenges of such an intersectional approach.

Learner Mistreatment in Medical & Health Professions Education

→ Learner mistreatment within medical education in the literature dates back to early 1980s

→ Generally, rates of mistreatment have not improved despite many well-intended efforts

What is Learner Mistreatment?

Mistreatment may be either intentional or unintentional and occurs when **behavior shows disrespect for the dignity of others** and **unreasonably interferes with the learning process**.

Examples of mistreatment include:

- sexual harassment
- discrimination or harassment based on race, religion, ethnicity, gender, or sexual orientation or other protected classes
- public humiliation
- psychological or physical punishment
- the use of grading and other forms of assessment in a punitive manner

Association of American Medical Colleges

HEALTH SCIENCES

Mistreatment is Linked to Health & Wellbeing

- Mistreatment of medical learners is tied to **higher rates of burnout, depression, anxiety, and substance use disorders**.

- Learners who report being frequently mistreated are **nearly three times more likely to experience burnout and suicidal ideation.**

- Learner mistreatment also connects with **poorer patient outcomes:** 67% of those witnessing disruptive behavior felt this behavior contributed to adverse patient events, and 27% felt it contributed to patient mortality.

- **Thus, mistreatment impacts the health and wellbeing of our physician workforce and communities.**

Hu YY, 2019
Rosenstein A., 2017

HEALTH SCIENCES

Creation of the UNM School of Medicine Learning Environment Office in 2019

The work of LEO is work of systems and culture transformation, which take intention and time.

LEO has developed long-term goals aligned with initiatives to help us reach our mission of fostering an inclusive learning environment where teachers, staff, and learners thrive, and where relationships are mutually respectful and beneficial to each other and to institutional climate.

LEO's Goals

1. **Recognize and increase exemplary behavior**

   - Learning Environment Speaker Series

   - iTeach acknowledgements

   - Building Inclusive Environments collaboration with OfDEI

   - Teaching excellence and Learning Environment Champions

   - Building Inclusive Leadership program

2. **Reduce incidents of mistreatment**

   - Reporting system & consistent response process

   - Longitudinal data tracking and trend identification

   - Interventions based on trends

   - Educational workshops

   - Policy enhancements

LEO's History and Growth

LEO founded
LEO serves 400+ **MD students** and 800+ **residents & fellows**

LEO expands services to 400+ students in the 7 **Health Professions Programs***

Title IX regulations allowed LEO to address conduct not previously considered SPOO, increasing cross-collaboration and prevention efforts.

2019

2021

2018

2020

July 2024

National medical school accrediting agency **cites UNM** for high student mistreatment rates

LEO expands services to 100+ **research education** students (MS, PhD, & post-docs)

LEO expands to all of HSC, including Colleges of Nursing, Pharmacy, and Population Health
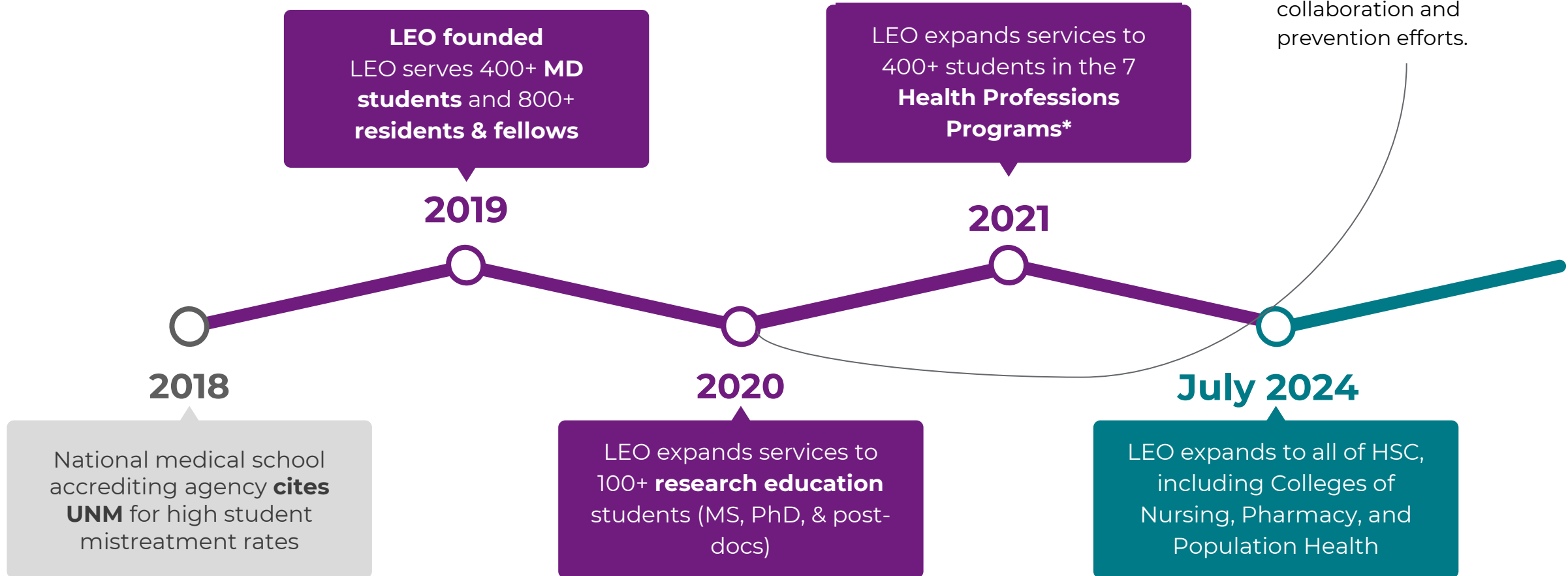
*Physician Assistant, Occupational Therapy, Physical Therapy, Radiological Sciences, Emergency Medical Services, Medical Lab Science, Dental Hygiene, Anesthesia Assistant

HEALTH SCIENCES
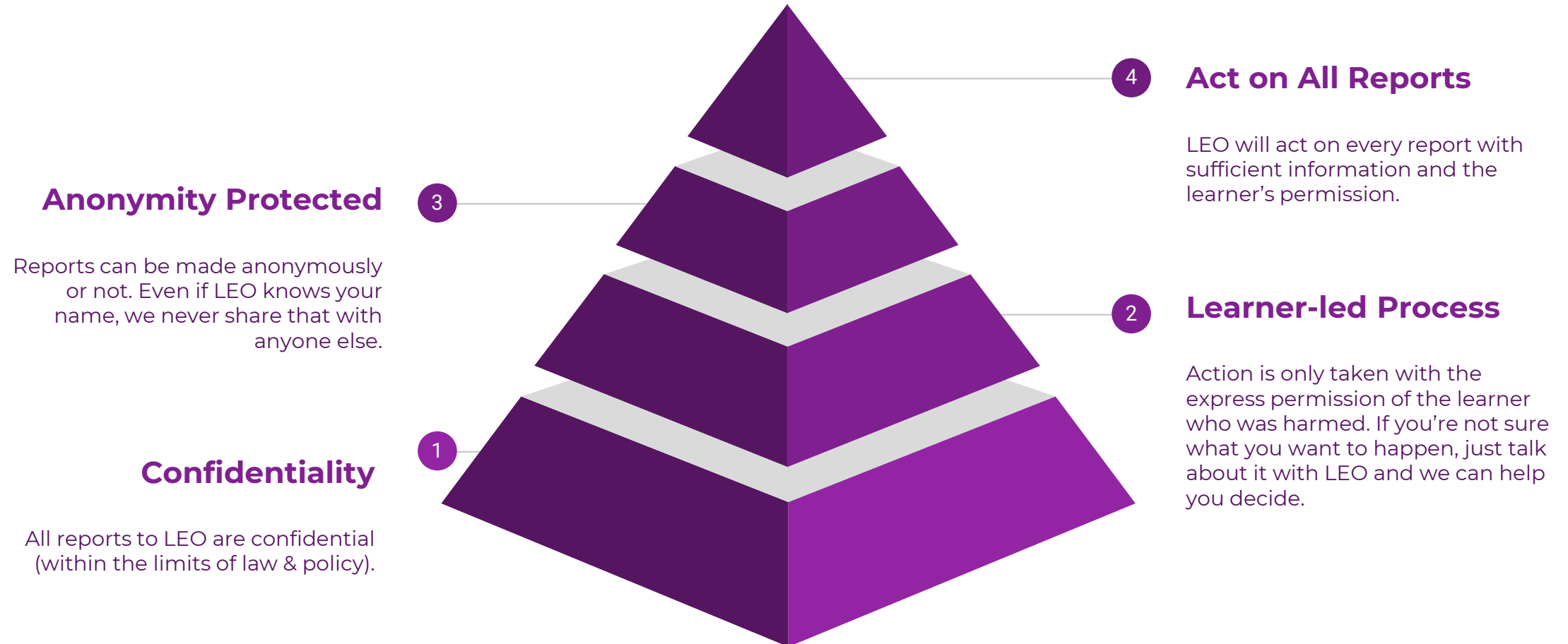
LEO's Strategies for...

Reducing Retaliation

- Delayed action

- Schedule changes

- Multiple reporters

- Protect identities

- Do nothing (incident logged in database and case closed)

- A learner can reopen a closed case at any point if they choose

Increasing Witnessed Reports

- Trauma-informed approach
  - Demonstrates support
  - Person harmed doesn't have to take the first step
  - Ensures they don't have to retell the incident

- Even if they don't want LEO to take action, the information is valuable for trend analysis

- Learners lead LEO's process

HEALTH SCIENCES
LEARNING ENVIRONMENT OFFICE

LEO's Initiatives

Prevention
Proactive and collaborative efforts to ensure positive or neutral learning environments shift toward exemplary
- 2 Speaker Series
- Building Inclusive Leadership program for learners
- Anti-Racism, gender equity, and disability justice work
- Workshops and trainings, such as
  - Conflict transformation
  - Receiving and Giving feedback
  - Creating & Maintaining Supportive, Respectful, and Inclusive Environments
  - Upstander/Bystander Training
  - Responding to Microaggressions
  - Tailored Learning Environment workshops
- Department chair reviews
- Transparency and data reporting via quarterly and ad-hoc reports
- Consultations with departments/programs
- Serving on search and decision-making committees
- Reviewing, updating, and enhancing policies, systems, and procedures
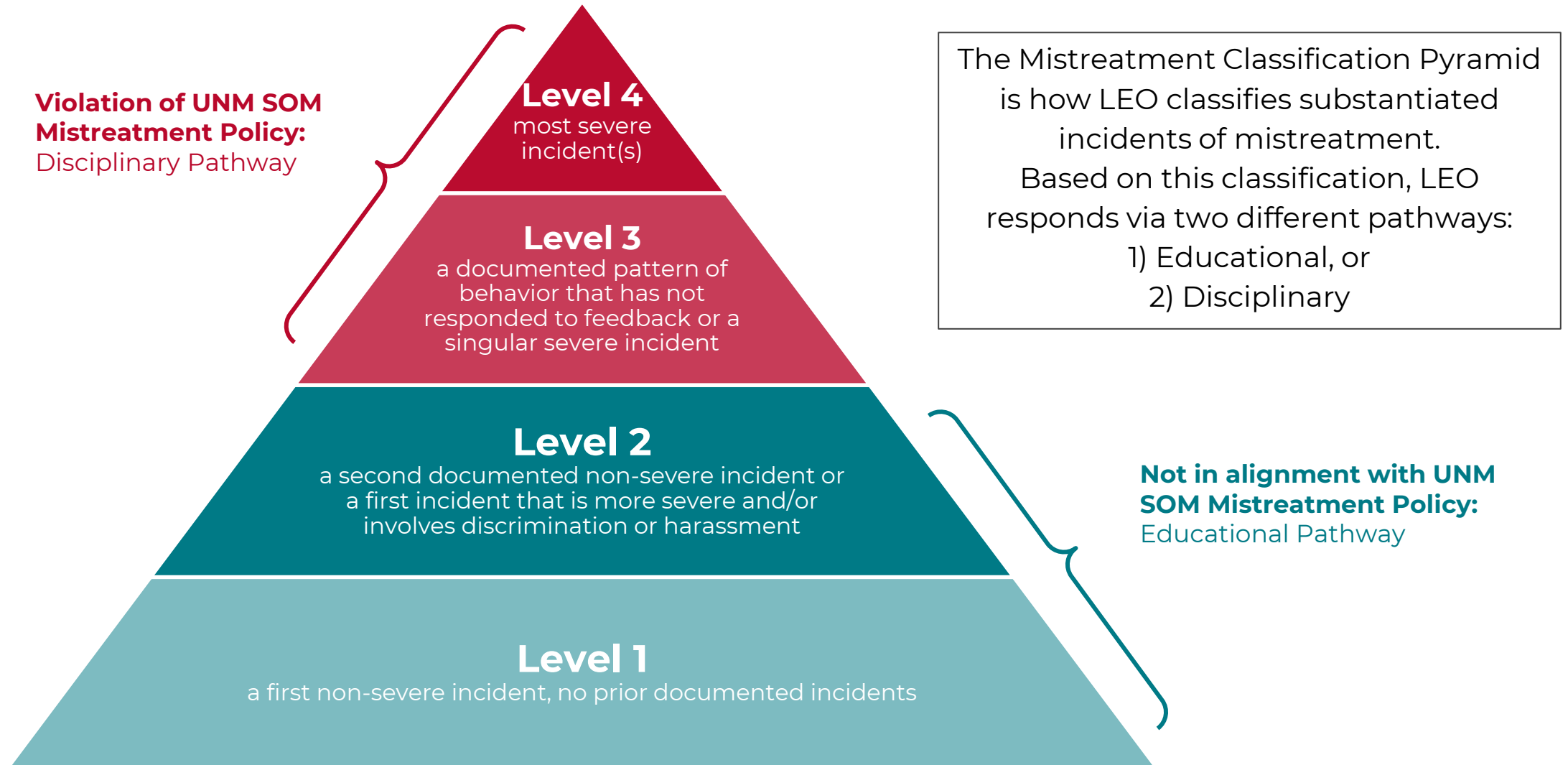- National Consortium of Learning Environment Professionals

Intervention
Intervening in negative learning environments and incidents of mistreatment
- Mistreatment reporting system
- Consistent and standardized response process
- Learning Environment Audits
- Mistreatment Response Committee
- Consultations with departments
- Monitoring of high-incidence environments

Attention
Shining a light on positive learning environments & exemplary teachers
- *iTeach* Exemplary Teacher Recognition Program
- Teaching excellence awards
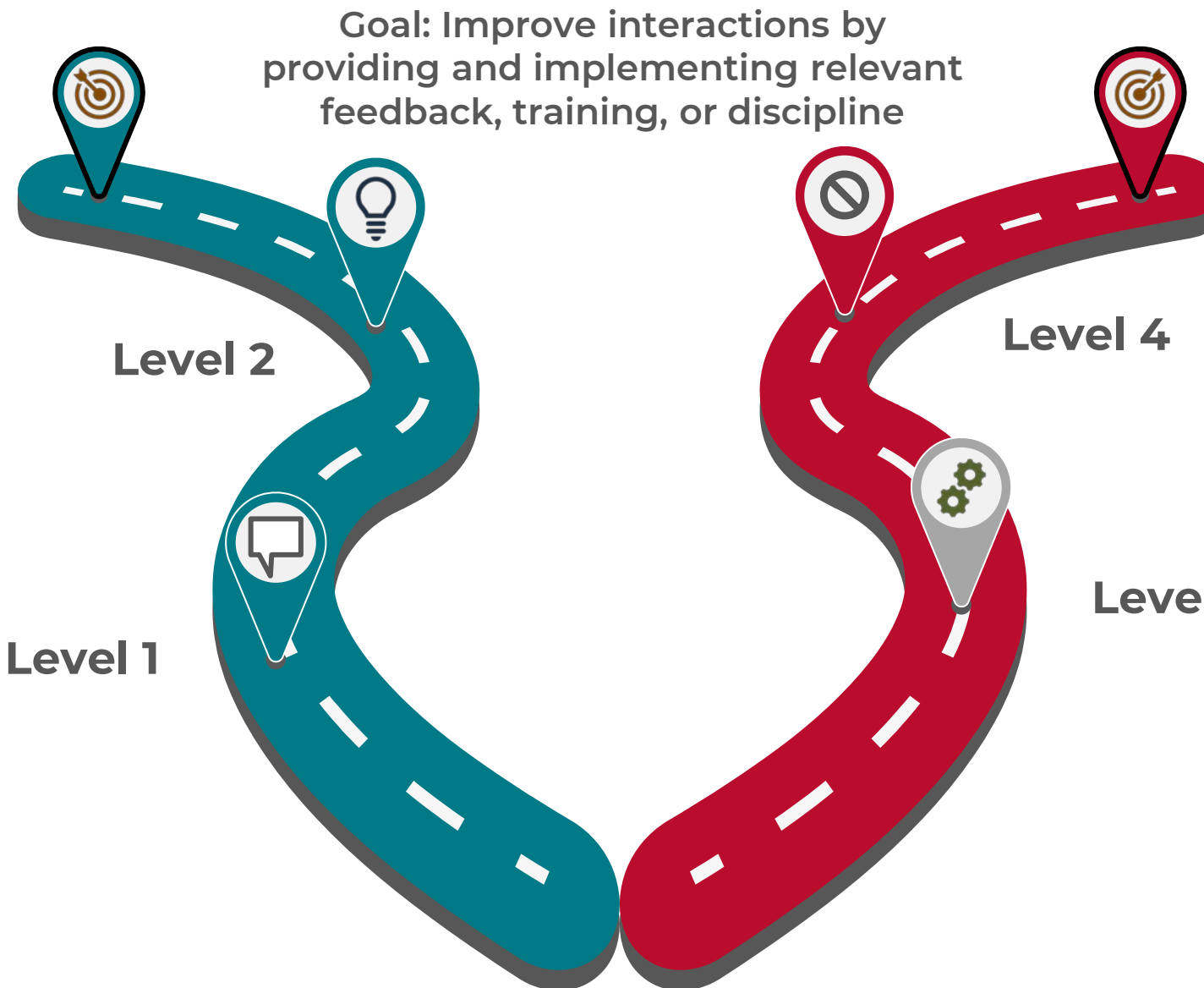- Highlight & celebrate respectful, supportive, and inclusive environments

More negative learning environments

More positive learning environments

HEALTH SCIENCES

SCHOOL OF MEDICINE
LEARNING ENVIRONMENT OFFICE

LEO's Mistreatment Classification Pyramid

Violation of UNM SOM Mistreatment Policy: Disciplinary Pathway

Level 4 most severe incident(s)

Level 3 a documented pattern of behavior that has not responded to feedback or a singular severe incident

Level 2 a second documented non-severe incident or a first incident that is more severe and/or involves discrimination or harassment

Level 1 a first non-severe incident, no prior documented incidents

The Mistreatment Classification Pyramid is how LEO classifies substantiated incidents of mistreatment. Based on this classification, LEO responds via two different pathways: 1) Educational, or 2) Disciplinary

Not in alignment with UNM SOM Mistreatment Policy: Educational Pathway

Adapted from Stanford's Mistreatment Response Pyramid and Vanderbilt's Professionalism Pyramid

OFFICE OF COMPLIANCE, ETHICS & EQUAL OPPORTUNITY

*All CEEO staff have dotted reporting lines to the Title IX Coordinator and Clery Coordinator for purposes of Title IX and Clery oversight and compliance.

Francie Cordova — Chief Compliance Officer

Angela Catena — Title IX Coordinator

Adrienne Helms — Clery Coordinator

Beck Rivera — Deputy Chief Compliance Officer

Heather Jaramillo — Director of Equal Opportunity

VACANT — Associate Title IX Coordinator

Sumanth Guduguntla — Database Manager

VACANT — Associate Director of Equal Opportunity

Mish Martinez — Accommodation Specialist

Sylvia MacGregor — Administrative Assistant

Jordan Apodaca — Compliance Manager

Crystal Velarde — Compliance Assistant

Sarah Hunter — Compliance Specialist

Rachel Foster — Compliance Specialist

David Poyer — Compliance Specialist

Diana Delgado Reyes — Compliance Specialist

Aanika Mike — Compliance Specialist

Legend
Title IX
Clery
General Compliance
ADA & Accessibility
EO Investigations
EthicsPoint
Admin Support

What Does CEEO Do?

Investigates claims

Facilitates alternative resolutions

Oversees supportive measures

Provides tailored prevention trainings

Workplace accommodations and campus accessibility

Provides general compliance guidance

Promotes campus safety
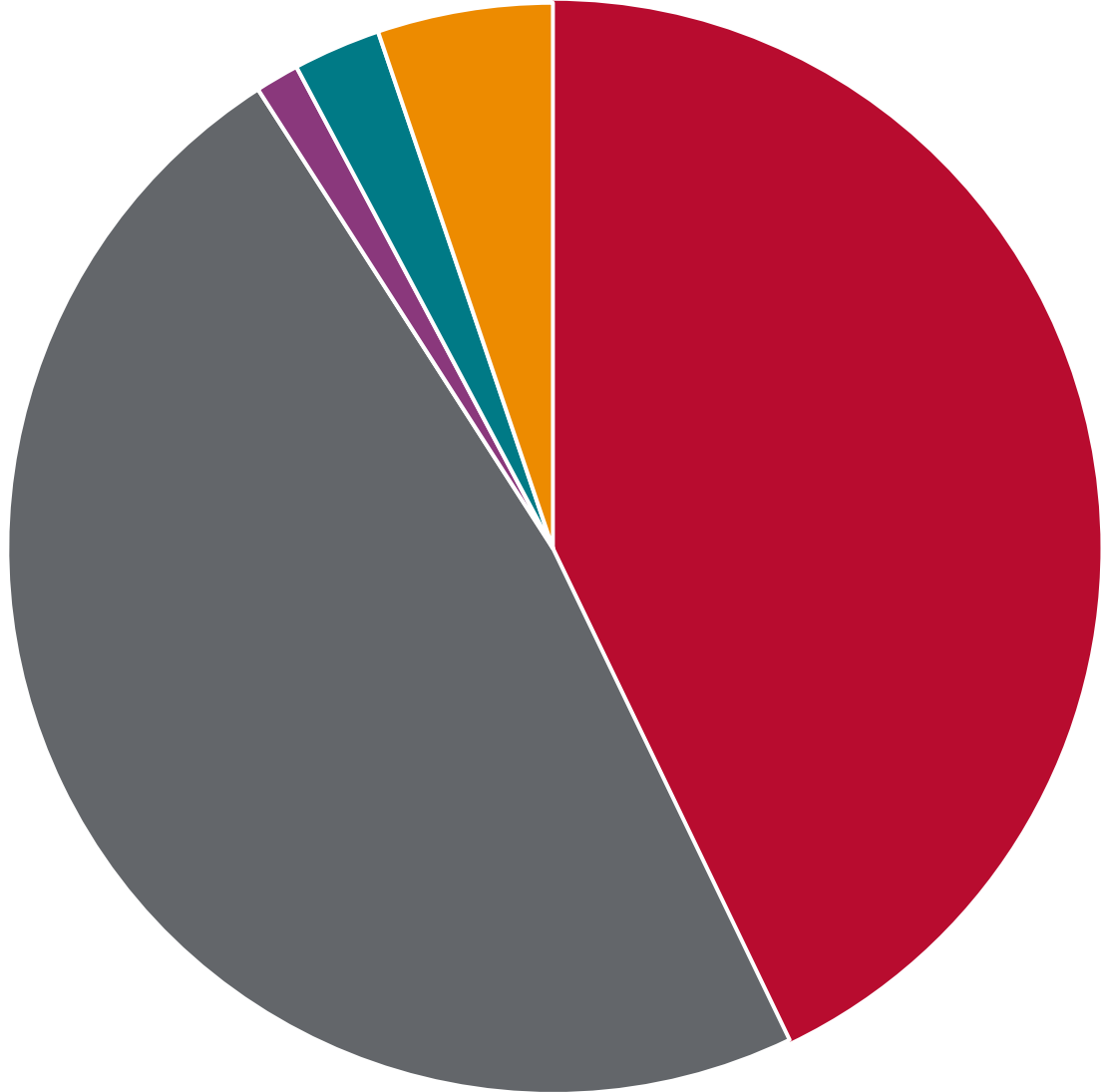
LEO + CEEO Collaboration

Together, LEO and Title IX have successfully managed complex and high-level cases, increasing trust, accountability, and institutional courage.

LEO is a Confidential Reporting Site

- LEO was the first UNM confidential non-advocate group beginning in 2019
  - The only confidential entity that tracks and reports data longitudinally
- LEO can receive reports that may concern TIX issues and walk the complainant through the CEEO reporting and response process
- LEO can assist with identifying and requesting supportive measures specific to medical and health professions training
- LEO may address concerns through mistreatment/ professionalism policies
- This impact has been:
  - encourages and increased reporting
  - enhances the understanding of Responsible Reporter roles among faculty and staff
  - increases the use of supportive measures

LEO & CEEO

CEEO

LEO
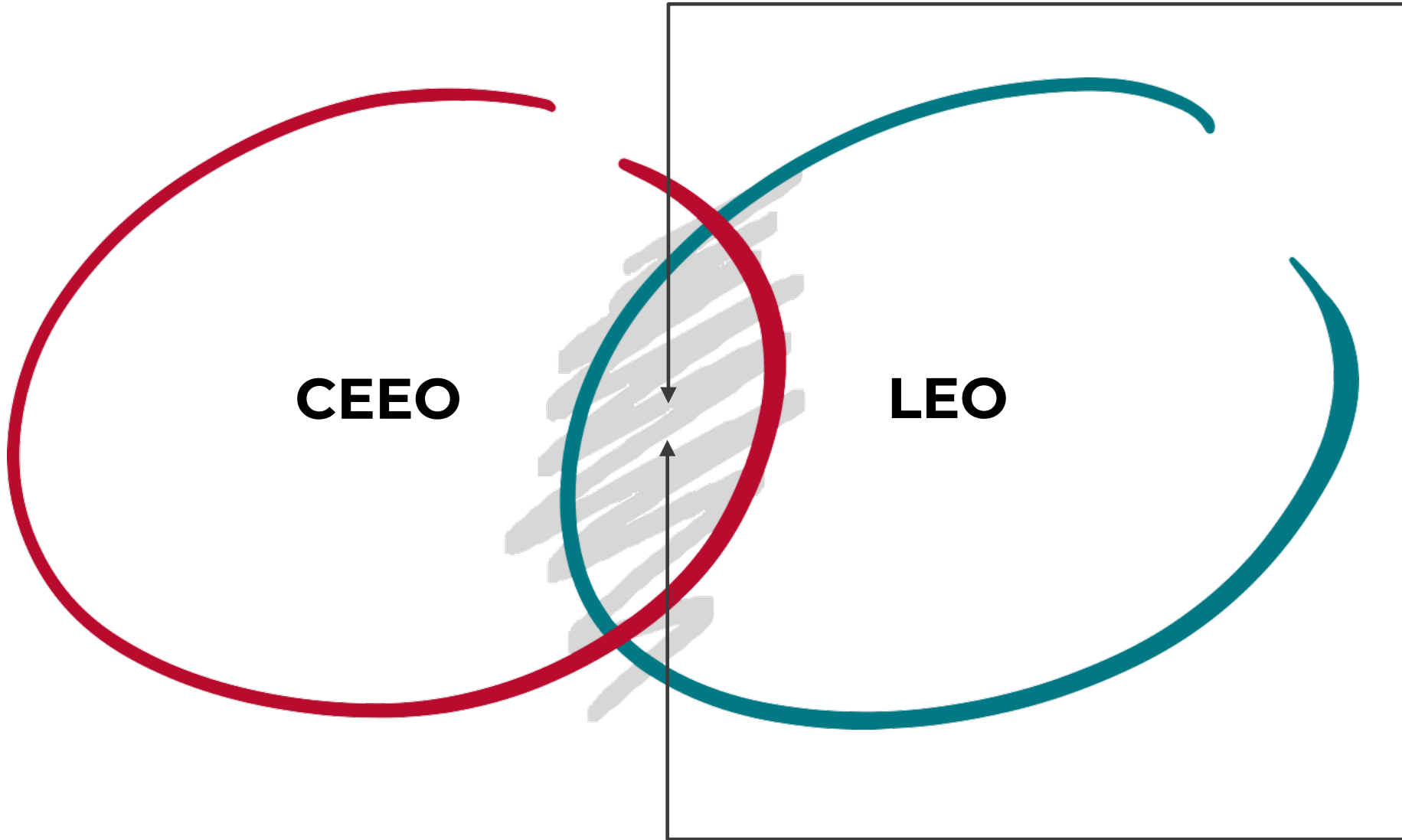
Areas of overlap

- Collaboration on HSC mistreatment reports that are violations of civil rights
- Sharing of data for case management on a "need to know" basis

Areas of partnership

- LEO can assist with identifying and recommending supportive measures
- Sharing and analyzing aggregated data
- Implementation of prevention activities
- Enhanced policies and procedures based on specialized expertise and experience

When LEO Receives a Report of Harassment and/or Discrimination...

Reported confidentially	Reported to CEEO
• Collects the report • Speaks with the learner • Provide information regarding formal reporting process, procedures, policies, and expectations • Assist with supportive measures including referrals to institutional and community resources • Provide a safe and confidential space for reporters to speak freely • Report aggregate data required under Clery Act	• Share report with CEEO • Discuss most appropriate next steps and determine who does what - on a case-by-case basis • Discuss potential informal recommendations to supervisors (often department chairs) • CEEO leads formal investigation, if there is one, LEO can assist as necessary

Common Supportive Measures

- Adjustment of schedule

- Adjustment of placement/preceptor

- Removal of evaluation(s) written by respondent(s)

- Mutual restrictions on contact between parties

- Extension of deadlines

- Referral to mental health resources

- Designated place to raise and document concerns

- Anti-Retaliation plan

- Communication plan

So, how's it going?

→ The vast majority of substantiated incidents are responded to on the Educational Pathway. I.e., they are not severe and/or pervasive behaviors.

179

63

26

9

Level 1
Level 2
Level 3
Level 4
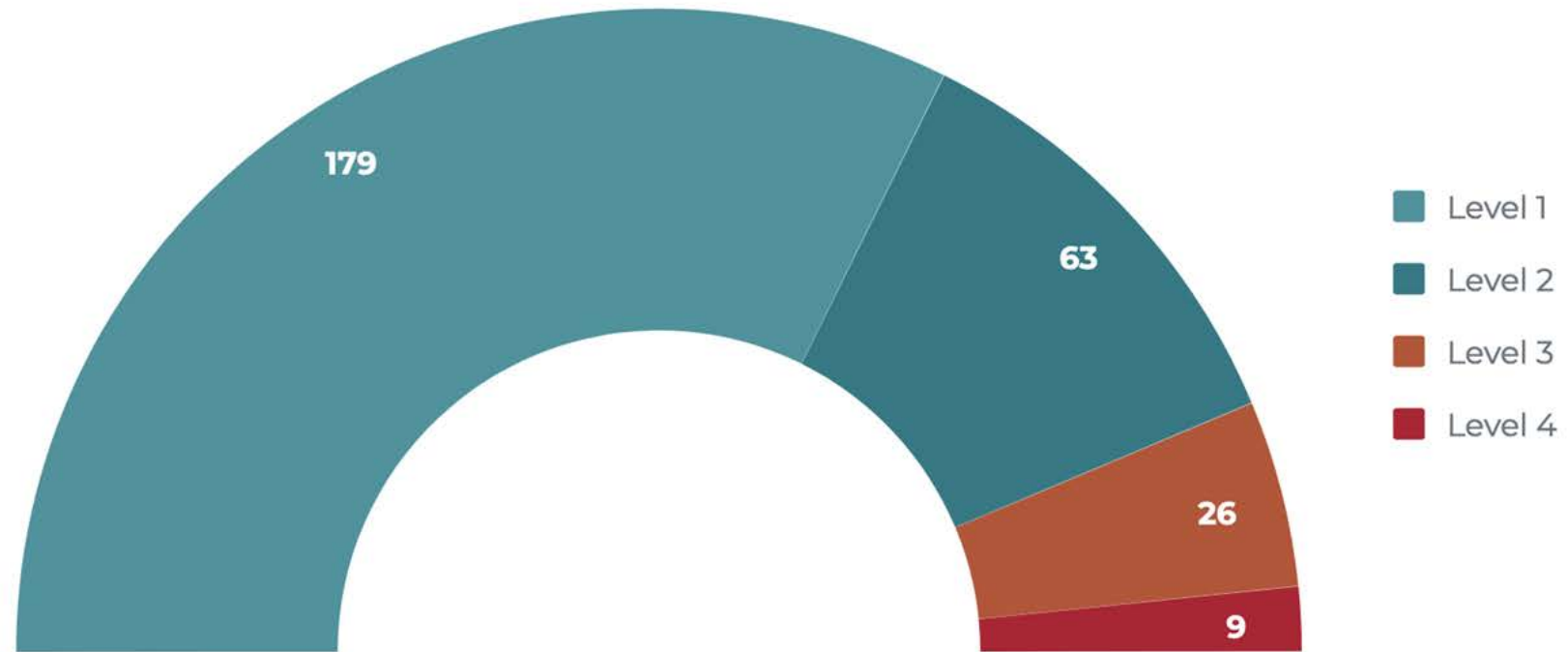
87% of classified incidents have resulted in recommendations on the **Educational Pathway**

13% of classified incidents have resulted in recommendations on the **Disciplinary Pathway**

July 2019 - June 30, 2024

HEALTH SCIENCES
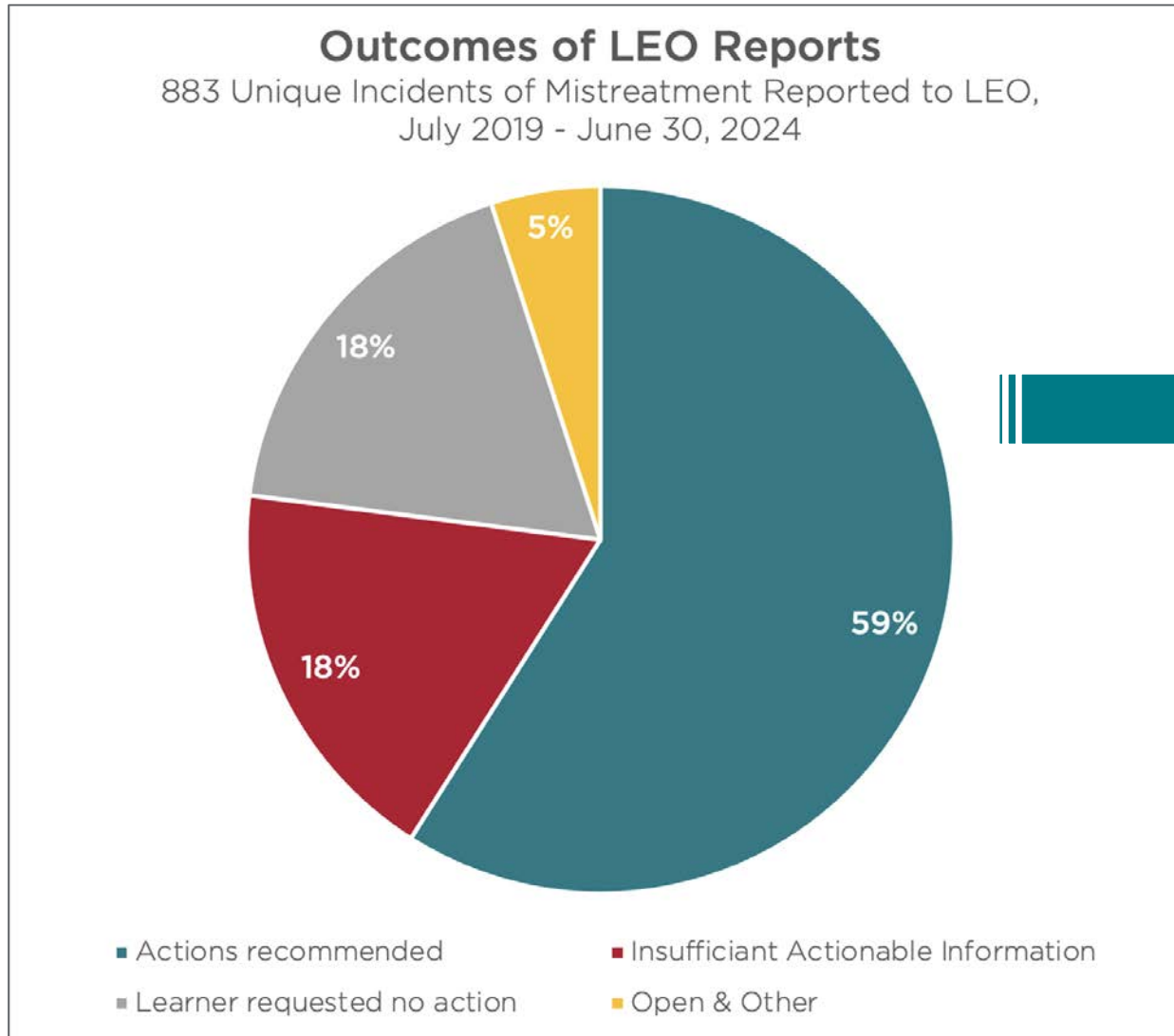
Moreover, UNM SOM's mistreatment prevalence as reported by graduating medical students is decreasing over time

Percent of respondents who have personally experienced mistreatment at least once during medical education
(not including "publicly embarassed"); UNM vs. National
GQ data: 2013 - 2024
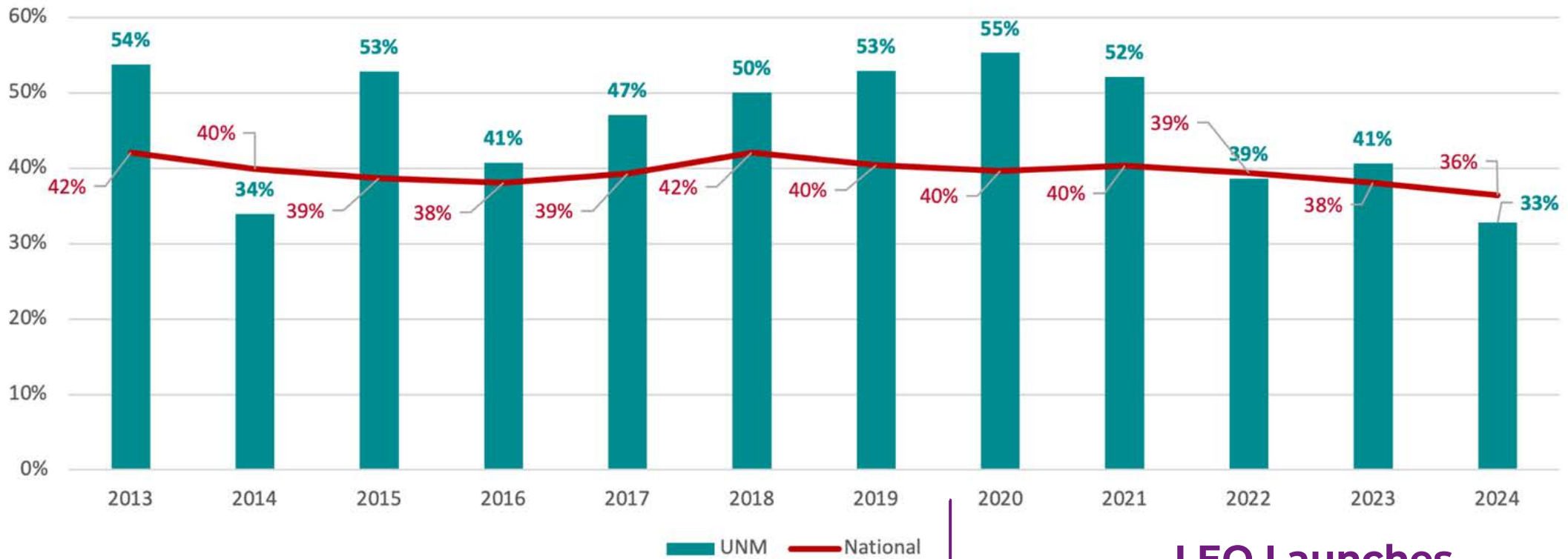
LEO Launches

Additionally...

- CEEO has designated a manager focused on the Health Sciences Center campus, working closely with LEO

- Reporting rates by Responsible Employees at the HSC have increased

- Awareness and use of supportive measures have also risen

CEEO + LEO = Innovation in action

➔ Unique partnership and with mutually respectful and trusting relationships with each other.

➔ Deepens our understanding of institutional culture and climate through aggregate data sharing, analyzing longitudinal data, identifying trends, and creating targeted prevention strategies.

➔ We consistently develop innovative supportive measures tailored to complex clinical and laboratory learning environments.

➔ Informs large- and small-scale prevention efforts, such as identifying hot spots for retaliation or unsupportive mentors.

➔ Allows for identifying individuals with a pattern of problematic behavior, necessitating interventions.

Case Study 1

A retired attending physician is serving as a volunteer faculty. Anonymous reports are received about this faculty in which they are described to engage in the following behaviors:

→ demonstrates physical exam on women students without asking for consent, including touching and moving their bras

→ makes inappropriate comments such us stating he is surprised they allow women to be doctors and judges these days

Case Study 1 - pair/share

1. What response options are available to you?

2. Given an innovative collaboration like the one described between CEEO & LEO, what additional options might be available?

3. How would you respond?

4. What challenges do you foresee?

Case Study 2

A medical student shares with a medical resident an incident of sexual harassment by a faculty member followed by a threat of physical harm by them.

This is reported to TIX but the student does not participate in process.

One year later another report about this faculty member threatening physical harm to a medical trainee is received.

Case Study 2 - pair/share

1. What response options are available to you in your current institution/process?

2. Given an innovative collaboration like the one described between CEEO & LEO, what additional options might be available?

3. How would you respond?

4. What challenges do you foresee?

Case Study 3

A resident reports years of mistreatment, including unwanted touching and sexist remarks, by a nationally, highly regarded physician. Most behaviors are reported to have happened one-on-one.

The reporter wants the behaviors addressed, but is not willing to engage in any formal process, stating she needs a letter from the attending in order to get a job so he cannot know she has raised these concerns.

Case Study 3 - pair/share

1. What response options are available to you in your current institution/process?

2. Given an innovative collaboration like the one described between CEEO & LEO, what additional options might be available?

3. How would you respond?

4. What challenges do you foresee?

What UNM did...

Reflection & Next Steps

➔ Given what you have learned about LEO & CEEO's collaboration, what innovations can you bring back to your institution/work?

➔ Do you have existing partnerships that could be enhanced by anything we've discussed today?

➔ What other ideas have arisen based on what we've shared?

➔ Considering your institution's mission and values, what aspects of the LEO/CEEO collaboration presents opportunities?

◆ Challenges?

Thank you!! Questions?

Contact us:
➔ Angela: acatena@unm.edu
➔ Diana: deemb@salud.unm.edu

Sexual Assault **P**revention **A**nd **C**ommunity **E**quity

(SPACE) Toolkit

A roadmap for institutional transformation grounded in insights from the book *Sexual Citizens: Sex, Power, and Assault on Campus (W.W. Norton & Company) by Jennifer S. Hirsch and Shamus Khan*

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What is SPACE?

SPACE stands for **S**exual Assault **P**revention **A**nd **C**ommunity **E**quity. This **SPACE** toolkit provides campuses a new approach to sexual violence prevention – one grounded in a broad commitment to equity. The process invites diverse stakeholders, from students to the senior administration, to be on the same team. SPACE is both practical and hopeful. It is grounded in empathy, giving communities ways to work together toward their shared goal of campus equity. The work rests upon a simple and well-established truth:

<p style="text-align:center; color:#cc0022; font-size:1.5em;">Assault is about power.</p>

<p style="text-align:center; color:#cc0022; font-size:1.5em;">The SPACE toolkit uses that truth to develop a plan
for campus transformation.</p>

Applying the SPACE toolkit will help your campus understand how its physical space reflects and even <u>amplifies</u> power inequalities. For this reason, campus spaces are part of why sexual assault is so common. That troubling insight comes with a hopeful implication. We can redesign spaces and policies to promote equity. This is a new approach to sexual assault prevention, with benefits that go far beyond sexual assault.

Sexual Assault: This toolkit will help you see how sexual assault is built into your campus environment and outline a process to redesign it out.

Prevention: The focus of the SPACE Toolkit is to prevent sexual assault by working at the community, rather than the individual level.

And

Community: A campus is not a hunting ground, it is a community of citizens. Changing campus spaces is part of a collective project to set your community on a path to a healthier campus culture.

Equity: Is where it all begins. Sexual assault isn't just gender-based violence; it is the result of many intersecting power inequalities. Creating and maintaining equity is key to eliminating sexual assault (and other types of violence) and to building a community where everyone can thrive.

The SPACE toolkit encourages you to think less about individuals and more about environments. It describes how to bring your campus together, to assess how residential and social spaces are organized, and to make a plan to leverage the organization of residential and/or social space on campus to advance campus equity.

SPACE applies insights from public health and distills some of the ideas from the book *Sexual Citizens* into four practical phases. **A fundamental tenet of a public health approach is to focus on creating environments where people are less likely to act in ways that hurt others or themselves, and are more able to thrive.** *Sexual Citizens* hones this insight through the concept of "sexual geographies" which we explain more thoroughly below.

This work is challenging. It will take buy-in from senior leadership, support of those involved, patience, and time. But it will also be deeply rewarding and holds promise for new ways of thinking and working that can create profound, lasting change.

This is a transformational project. The process requires that communities convene a diverse set of stakeholders to have real conversations about inequalities on campus. This process, especially at first, may not create happy feelings; it may even create a lot of discomfort. Institutions of higher education face significant challenges with inequalities and the harms that those inequalities produce. But, if any set of institutions are able to face this challenge, it's schools. We are equipped to have these difficult conversations, and when we do we can move the needle on a range of harms, including sexual violence.

This process is most appropriate for institutions that have decided to move from a mindset of "compliance" to "transformation." It requires the engagement of those who have done diversity, equity, and inclusion work as well as sexual violence response. Communities don't need to do it all at once. We even encourage groups to think about taking on a small part of their campus geography at first, and then build upon that experience (and hopefully, success!). Communities that have buy-in from the highest levels of their leadership are the ones that are likely to be most successful in this work.

There are four phases your community will engage to make change in its environment:

PHASE 1. COMMIT
Get buy-in and support from senior-level administrators.

PHASE 2. CONVENE
Bring people together with the power, understanding, and shared intention of redesigning campus spaces and policies governing those spaces.

PHASE 3. CONSIDER
Help your community understand what you'll soon come to call your campus "sexual geography."

PHASE 4. CHANGE
Generate real changes to your campus sexual geographies by advancing equity on campus.

Clean Water: An Example of the Public Health Approach

Every year over one million people around the globe die from diseases associated with unsafe drinking water. Huge strides have been made in reducing these deaths because of a public health approach. But access to safe drinking water reflects both global inequalities–6% of deaths in low income countries are because of unsafe water–and local ones, like a lack of funding to replace corroded pipes.

Effective solutions to the clean water crisis don't rely upon shaming people ("Why are you drinking unsafe water?!?"). Teaching each individual how to protect themselves, ("Here is how you clean your own water,") is both inefficient and unlikely to lead to sustained community-level improvements. Instead, we take an "environmental approach." That means looking upstream as to why the water is unsafe in the first place; creating a norm that safe, drinkable water is a fundamental human right: and modifying environmental contexts so we don't have to rely upon individual behavior. This way, people can open their taps, and clean water comes out. **SPACE asks you to apply a parallel environmental perspective to sexual assault prevention.**

This toolkit is a compilation of resources, suggestions, and ideas, not a recipe or fixed set of instructions. Appendix 1 outlines a general timeline and workflow plan for this process.

Before you embark on this journey, we need to first introduce a foundational idea for the work you are about to undertake: ***sexual geographies***.

What are Sexual Geographies?

"Space is inextricably intertwined with sexuality."
- *Sexual Citizens*, **p. xix**

The campus social and built environment produces opportunities for sexual violence.
Changing that environment can be a powerful approach to prevention.

Imagine two college students heading back to one of their rooms after an evening of flirting. They're not sure what they want, but the bars have closed, the parties have ended, and there's nowhere else to go but to one of their rooms. When they open the door to that room they see four items: a desk, a chair, a bureau, and a bed. If they don't sit together it's awkward. But sitting together means sharing a bed. And like it or not, that has a powerful meaning. Furniture is one part of the campus sexual geography. As explained in *Sexual Citizens*, sexual geographies encompass the spatial contexts people move through and the friends and organizations that regulate access to those spaces. **Space is not just a backdrop, where certain behaviors tend to occur in certain places.** Instead, space can deeply influence our behavior.

**Dude...
Stop the Spread,
Please**

It's a space issue.

The use of space reflects power inequities.

Unequal access to space on campus is not inevitable. It can be the result of well-meaning policies and of pre-existing structures and resources. Changing these can mitigate power inequalities on campus. This insight points to a powerful opportunity: <u>schools can reorganize space to make sexual assault less likely to happen</u>.

Power is essential to understanding assault. On campus and beyond, access to and control over space is a manifestation of power. As an example, the sexual geography of many residential colleges and universities reflects the assumption that more advanced students should have greater access to better housing–specifically, housing with more social space and single bedrooms. These policies can give more powerful students even more power. On some campuses, it's also shaped by national Greek life policies that ban sororities—women-controlled spaces—from hosting parties that serve alcohol. This effectively gives men control over party spaces and the distribution of alcohol, and funnels younger women into spaces controlled by older men. These spatial dynamics—control, access, feeling at ease—are major players in sexual assault. They're built into the campus environment. On non-residential campuses, other dynamics of space matter—where parking lots are and how students are expected to get to and from campus, or whether or not the common areas of campus are universally available or privatized, requiring one to buy a cup of coffee or a meal just to be able to use a particular space.

We've spoken at over 150 communities and in pretty much every single one we've seen how space increases power inequalities. The SPACE toolkit presents strategies to create a campus where the physical environment mitigates inequality, thereby reducing the risk of sexual violence. Before you get too worried that this is going to cost millions, let us assure you: <u>a lot can be done without significant financial cost to your community</u>. Some changes will require no financial investment at all.

How do sexual geographies contribute to sexual violence?

Sexual Citizens highlights several examples of how sexual geographies contributed to sexual violence on Columbia University's campus. We use these concrete examples from stories told to us by students to help explain the concept of sexual geographies. Each campus context is different from Columbia University in the city of New York, but these stories illustrate the general concept. The aim is then to apply these insights to each unique campus context.

- Lupe, a first-generation Latinx student, felt isolated from their heritage by Columbia's white binge-drinking culture. They sought refuge at a Dominican nightclub, where their drink was spiked. "Lupe should have been safe sitting at a bar, listening to the bachata, but if there were a space where Lupe felt at home on campus… then they'd never have wandered away, in despair at their isolation" (p. 5).

- The book also **provides an example of how a space where Lupe could feel at home might be created, describing a party at which Latinx students borrowed a fraternity living room to celebrate Mexican Independence Day**. At this party, diverse Latinx students were able to come together in a "sense of collectivity, of panethnicity… where they felt at home." (p. 52) However, this fleeting sense of the community was only made possible by the 'generosity' of the white male students who controlled it, and chose to hand it over to Latinx students one evening. *What would it look like to have a more permanent space where Lupe would feel at home? And where minoritized students, in general, were able not just to be guests in spaces controlled by others, but have social spaces of their own?*

- As a freshman from an "elite but sheltered boarding school in Thailand" (p. 5), Luci met Scott at a bar. Her fake ID got her in the door, but Scott was a senior and was able to buy them plenty of drinks at the bar. They danced and made out, and Scott asked Luci back to his fraternity. Hard alcohol was not permitted in the fraternity's public areas, and so Scott invited Luci upstairs to a private space where he could evade these school regulations. Luci then went further upstairs to his room, where Scott raped her. Scott was in a space he controlled, in a room that was surrounded by his friends. Luci was alone, inexperienced, and overwhelmed by the many forms of power Scott was able to marshal. Scott controlled Luci's access to alcohol in every space they moved through. *Could Luci's experience have been different if there were public or private spaces that Luci had ownership over where she could drink and meet others? Or if the social scene for first year students wasn't so dominated by spaces controlled by men?*

For those who want to know more about how sexual geographies influence sexual violence, we have written about it here. We also explain the concept of geographies more thoroughly in this video.

For an even deeper dive into *Sexual Citizens*, this YouTube channel has a dozen videos, mostly short introductions to the main points of the book.

KEY TAKEAWAYS
- The spaces people live in and move through shape sex and sexual assault.
- Access to and control over space is a critical way that power works.
- Designing spaces and policies that moderate rather than augment existing power inequalities is essential to sexual assault prevention.

APPLYING THESE INSIGHTS TO YOUR CAMPUS:
- Think about ways that students/certain student groups may be experiencing isolation on their campus. How is that related to access to and control over?
- What kinds of students control the spaces where students socialize on your campus?
- What kinds of students don't have control over spaces where they can socialize, or host others?
- How do campus spaces, policies over spaces, and existing power inequalities relate to one another?

Now that you have the main idea down, it's time to embark on SPACE's four phases!

USING THIS TOOLKIT? We'd love it if you'd let us know by filling out this short form.

— Phase 1: Commit

"Once it becomes clear how the sexual geography... is essentially a sexual assault opportunity structure, we can start to imagine what it would look like to design safety into campus life."
- *Sexual Citizens,* **p. 259**

The aim of SPACE is to make real, lasting change within campus communities. For this to be successful, we strongly encourage securing institutional commitments from senior-level administrators. While an enterprising campus group could do this process on their own (and perhaps, that's where some communities will start–to show that the process can work), having buy-in from those with power to lead change will make this process much easier.

The major part of committing to this process is getting institutional leaders to move from a mindset of compliance to one of transformation. What this means is that institutions go beyond asking, "Have we complied with all local, state, and federal mandates?" and go a step further to ask, "What are the bold steps we need to take to build communities in which all students can thrive?" The frequency with which sexual assaults happen on college campuses points to the limitations of existing efforts, no matter how well-intended. Even on campuses making great efforts to comply with Title VII, Title IX, Clery Act, and state laws, students can experience substantial harm.

Getting institutional support for SPACE is the first phase in a four-phase process. There are three things to ask of your senior administration:

- **To provide institutional support for an approach to sexual violence prevention and diversity, equity, and inclusion work.**
  This new approach has two core elements. First, to go beyond trainings for individuals about consent and not being racist (these are essential, but not sufficient). The process requires expanding individual-level efforts by focusing far more on community level interventions (the clean water case, above, is a good example). Second, to recognize the interrelationship between diversity, equity and inclusion initatives and sexual violence prevention and to see DEI work and sexual violence prevention as interconnected.

- **To give faculty, staff, and students involved in the process the time to engage in this work**.
  Senior administrators can show support for this process by checking if those who engage in it would like to reallocate some of their existing responsibilities so they have adequate time to do this work without getting burned out. For many participants this work should take the place of other work obligations, not simply be in addition to them. Senior administrators can make it clear to managers that participation is part of a high-value institutional project. If a cafeteria staff person participates, for example, it should not be for additional unpaid work hours; it should be conveyed to the food service manager that this work is extremely valuable and should be prioritized.

- **To provide resources.**
  These need not be extensive. Financial compensation should not be required for most participants, though it should be used for some. Low income students, for example, should not have to pick between a paid job and being engaged in this process; compensating for their time will enable them to participate in the process. Meetings may require modest investments for food, supplies, and administrative support to schedule meetings or find space for people to meet.

For communities that cannot secure institutional commitments, this toolkit can still be followed. If it's not possible to secure support from high-level leadership, it may make sense to focus work with the SPACE toolkit on aspects of the campus sexual geography that can be transformed without substantial engagement from senior administrators. Success on a small scale can help make the case for future commitments and help the community learn in ways that will make larger projects all the more successful.

PHASE 1 - KEY TAKEAWAYS

- Secure whatever buy-in is possible from the senior administration.
- Ask for three things from the senior administration:
  - Support to connect diversity equity and inclusion work with sexual violence prevention.
  - Support for staff to have work taken off their plate as they participate in the task force and to make it clear to managers that this work is a high-level institutional priority.
  - Financial support for meetings and for students to help support diverse participation.

After whatever degree of senior-level commitment is provided, it's time to convene the stakeholders that will make up the core SPACE task force!

Phase 2:
Convene

"The physical landscape is a critical player in young people's futures, and is intertwined with all kinds of inequalities."
- Sexual Citizens, **p. xx**

The second SPACE phase is to convene a group of community stakeholders—what we'll call your "task force"—who can share knowledge and perspectives and join together to design and implement change. The specific elements will vary; on some campuses, fraternities and sororities dominate social space, and on others they are less prominent. On some campuses religious spaces may be key centers for social activities. Regardless, the SPACE task force should include relevant institutional and student stakeholders.

Institutional Stakeholders

In any institution of higher education, many administrative divisions make decisions that affect who has access to campus spaces and how those spaces are used. Therefore, it is important to start by bringing these offices together. This should include leadership as well as those "on the ground" in order to generate a conversation about how everyone, from the dean of students to the custodial staff, plays an important role in student life and the experience of space on campus. Think creatively and comprehensively about who needs to be at the table. This might include:

- Senior Administration: e.g. President, Provost, General Counsel, Development, etc.

- Offices of Diversity, Equity and Inclusion

- Title IX, Facilities, Housing / ResLife, Greek Life, University Police/Public Safety

- Faculty

- Student Activities: Student Life, Athletics, Office of the Chaplain, and those tied to student affinity groups

- Student Wellness / Counseling

- Institutes that focus on social power, including Women and Gender Studies, African-American Studies, Latinx Studies, schools of social work or public health, etc.

- Facilities/Grounds management, Transportation

Got Project Management?

The process we lay out in the toolkit will require people's time - to schedule meetings, take notes, follow up on action items, or even to make sure that there are snacks when people meet. On some campuses, it may be possible to reallocate responsibilities to free someone up to do project management. Other campuses might think about applying for state funding to hire someone to do this work.

Student Stakeholders

To bring in student stakeholders, the 'must-do' step is to facilitate participation by students who come from a variety of backgrounds and are engaged with a broad range of campus activities. For example, if the work does not include stipends for students, low-income students may be unable to participate because they cannot afford to donate their time.

Convening a group of students who represent diverse student experiences helps ensure that the collective understanding of space reflects the practical, everyday experience of students. Don't just rely upon student leaders. *Transforming sexual geographies uses space policy to address campus-wide power inequalities, so it is vital to hear from disadvantaged and minoritized students about their experiences*. You will also want to include some more socially advantaged students, as redistribution of resources will require their support. Here are examples of communities and identities to connect with:

- Black

- Latinx

- AAPI

- Indigenous

- International

- Students from every year

- Female-identified

- Male-identified

- LGBTQIA+ (try to represent the diversity of this group)

- Students with different physical and mental abilities

- Commuters

- First-generation

- Transfer

- Work-study

- Social clubs

- Religious students

- Greek life

- Student Athletes

- Resident Assistants

- Activists

- Student government leaders

In bringing these students together, it is crucial to attend to pre-existing power dynamics and to intentionally create space for voices that are the least likely to volunteer and be heard. See Appendix 2 for tips on running meetings.

Bringing Your Groups Together

We first suggest independently convening institutional and student stakeholders, introducing them to the project, getting their feedback on who is not in the room but should be, and then inviting new members. Because some members of the group may be less familiar with the range of experiences that constitute sexual assault, one idea for an early meeting is to invite in a staff person from a local rape crisis program, and have them provide some anonymized descriptions of student experiences. Alternatively, the group could together read the first chapter of Sexual Citizens, with some caution for student survivors who might find those descriptions hard to read. After constituting these two groups, bring them together to form their unified SPACE task force. SPACE is an opportunity for students and the administration to work toward a shared goal, understand each others' perspectives, and recognize that they are all part of the same community. SPACE is all about creating a collective positive vision for change grounded in equity. Part of that requires flipping the script, so faculty, administration, students, and staff all think of themselves as part of the same community.

Convening a group of community stakeholders is no easy feat! Not everyone will be willing or able to participate. But no matter the limits to the task force, having a diverse group of community members committed to the same project is a huge step on the way to campus transformation!

PHASE 2 - KEY TAKEAWAYS
- Assemble a group of institutional stakeholders who have different perspectives and some of whom control access to campus spaces.
- Assemble a group of students with different degrees of power and with diverse experiences.
- Bring these two groups together to create a SPACE task force.

Once the task force is in place, the next phase is to CONSIDER, which means developing a shared vision and mission.

Phase 3:
Consider

Educate the team & gather their experiences

"What if prevention work did more to address the social context that makes rape and sexual assault such a predictable element of campus life?"
- Sexual Citizens, **p. xii**

Once the task force is convened, the next phase is to empower them with a vision and a mission. Ground this work in empathy and hope. Empathy means capturing the perspective of as many people as possible. That's what the convening was all about. Hope means thinking not about how bad things are, but instead coming together to develop an actionable plan to build a safer and more inclusive campus. That's what this *considering* phase is all about. Educating the task force in the concept of sexual geographies will give them the understanding necessary to develop a strategy for transforming the campus climate. Sexual geographies is an abstract idea; task force members are the experts on their own campus and will need to make the idea of sexual geographies more practical and specific in light of that campus' particular experiences.

We suggest organizing the consideration phase in **two parts: (1) education and (2) description**. Appendix 2 outlines some suggestions for how to effectively run inclusive meetings. We suggest reviewing this to help prepare for covering challenging topics with a diverse group of community members who have commitments beyond the task force.

Got Project Management?

The process we lay out in the toolkit will require people's time - to schedule meetings, take notes, follow up on action items, or even to make sure that there are snacks when people meet. On some campuses, it may be possible to reallocate responsibilities to free someone up to do project management. Other campuses might think about applying for state funding to hire someone to do this work.

Part 1: Education

Meeting 1: Introductions, and homework

STEP 1	STEP 2	STEP 3
Have everyone introduce themselves and talk about their role on campus.	Establish agreed upon ground rules for discussion (see Appendix 2 for guidance).	Share and briefly have everyone review this toolkit, paying attention to the concept of "sexual geographies."

STEP 4

Assign everyone some homework: read this SPACE toolkit, more thoroughly review the concept of sexual geographies, and be ready to talk about what each person took away from the concept. This homework shouldn't take more than one hour, though people could certainly dedicate more time. We've created four resources that people should engage with as part of their homework:

- **SEXUAL GEOGRAPHIES STORIES:**
  One of the most effective ways to engage stakeholders is through storytelling. Stories allow people to integrate the emotional and practical implications of abstract ideas. What from the book compelled you to seek out this toolkit? You can draw from the stories in the Sexual Geographies section on page 5 and 6 of this toolkit, or others that compelled you—either from *Sexual Citizens* or, better yet, from your own campus.

  > Other stories from the book to refer to:
  > - Charisma, p. 16-18, p. 243
  > - Octavia, p. 185-188
  > - Austin, p. 60-61
  > These are all excerpted in Appendix 4.

- **VIDEO EXPLAINING CAMPUS SEXUAL GEOGRAPHIES:**
  This video from professors Jennifer S. Hirsch and Shamus Khan can lend support to your vision and story, particularly for those who have not read the book.

- **VIDEO ON A PUBLIC HEALTH (COMMUNITY-LEVEL) APPROACH TO SEXUAL VIOLENCE:**
  This video explains the public health approach to sexual violence and relates it to the findings of *Sexual Citizens*.

- **FOR THOSE WHO WANT A DEEPER DIVE:**
  This YouTube channel provides several more micro lectures on *Sexual Citizens*. The SPACE toolkit is one example of an approach to sexual violence prevention sometimes called "situational prevention". For other examples of work in this area see: Valor.us, JHU and MCASA, Women's Safety Audits, Shifting Boundaries Resources (designed for middle schools, updates described by Valor.us).

- **SEVERAL MEETINGS OR A RETREAT?**
  Some campuses might find it easier to do this work spread across several meetings, as we have described. For others, it will be more conducive to focused work to plan retreat-style work, for example setting aside several Friday, Saturday, or Sunday afternoons in a row.

Meeting 2: Discuss Sexual Geographies, and New Homework!

The aim of this second meeting is to come together and talk about what, upon further reflection, task force members took away from the idea of sexual geographies. The purpose isn't to analyze the campus—we're not quite there yet! Instead, it's to build a common language for talking about space and power on campus. Because some people may want to ground their discussion in their own campus or life experiences (which is perfectly fine to do), it's important to educate everyone who is participating about mandatory reporting requirements. Appendix 2 addresses this and other guidelines for future meetings.

One way to structure this conversation is to ask your team to consider **5 different kinds of campus spaces** outside of the classroom:

1. **RESIDENTIAL:**
   Where students live. This could be on campus, off campus, or both.

2. **SOCIAL:**
   Where students have fun. Should include any affinity group spaces (e.g. Greek life) affiliated with your campus.

3. **VIRTUAL:**
   How students use digital technologies, and how this usage may be unequally distributed. This will include dating/hookup/meetup apps, social media, etc. These are important for a lot of reasons, some of which are less obvious (they influence who is invited to events, and how people get information about what is happening on campus).

4. **PROGRAMMATIC:**
   Where students host and attend official non-academic programs (clubs, speakers, performances, etc.)

5. **PUBLIC:**
   Where students gather and interact informally (e.g. outdoors, libraries, lounges, student union, class-rooms, dining halls, etc.)

At the end of this second meeting, the task force should have a better understanding of the concept of sexual geographies. Once the task force has created this common language, it can be put to work to make sense of the campus' particular and unique dynamics.

For the next part of the process, **Description**, prepare for a volcano of ideas. And that's exactly what you should ask of your team. Dream big! Think about all the ways sexual and power geographies affect the campus community. It's okay if this is impractical. The homework for the task force is to spend the time between the meetings thinking about everything they can, and to be ready to share it. You should also designate an email address that people can write to if they're not comfortable talking in front of the group, but have an idea they'd like to share.

Part 2. Description

Stage 2 of the Convening is to describe campus sexual geographies. Task force members can imagine themselves as cartographers, drawing a map of sexual geographies. It might even be a good exercise to do just that: put a map of campus on the wall (or collectively annotate on a digital version) and have people describe different spaces and how power works in and through them. Mapping sexual geographies should capture how power inequalities are built into the campus environment. How is inequality reflected in, and maybe even amplified by, the ways that students use social, residential, digital, and public spaces? Who controls and has easier access to which spaces? We have visited over 150 campuses talking about our work, virtually and in person, and some examples of what we heard about space and inequality illustrate the wide range of issues and policies that impact students.

- *On one campus we visited, participants told us of a rather run-down space. An alumni saw it and offered to pay for it to be renovated into a café. Most of the students were happy about this, except for the minoritized and low-income students who had previously used the space and found it "homey." Not only was the space not as welcoming for them–they actually found themselves working at the cafe that had been put in, serving coffee to their classmates. A space they had informally controlled and called home was transformed into a place where they waited on their classmates.*

- *Another campus told us of how they were very happy to have finally created spaces for LGBTQIA+ students and their Latinx community. It had couches and books and magazines and students used it in between classes. The problem was that it was in an administrative building, which was locked to students other than 9-5, Monday to Friday. When it came to "prime" socializing hours, these students did not have access to their spaces.*

- *On a campus with a large commuter population, parking policies did not allow students to leave their cars in lots after 9 pm. The campus bus service that connected campus to town and regional transportation also stopped at 9. That meant that students couldn't be on campus in the evenings, when most socializing happens, unless they lived on campus.*

The aim in this portion of the project is not to come up with solutions. **It's to gather together descriptions of campus life.** There may be different understandings of the same thing. That's fine. A diverse group will have diverse experiences and understandings. The goal is for task force members to use the concept of sexual geography to make sense of their own experiences or those they've heard about, and hear about the experiences and understandings of other people.

Meetings 3, 4 & 5: Making a rough outline

The purpose of these meetings is to outline a process to create a more detailed map, which can include feedback from individuals and communities outside the room who both experience and recreate the unequal distribution of space that contributes to sexual violence. **We suggest dividing these meetings into three parts**: 1) Getting it all out there, 2) Challenging assumptions, and 3) Narrowing focus.

1. MEETING 3 - GETTING IT ALL OUT THERE

Provide enough time for task force members to talk about their own experience on campus and what sexual geographies mean to them. There are lots of options here. Everyone should have done some homework and be ready to talk about what they think is the most important and/or least understood part of campus sexual geographies. Task force members could compile info into a shared document, or annotate a map in advance, and then use the meeting time to review. Or, the meeting can be organized thematically around five kinds of space: Residential, Social, Virtual, Programmatic, and Public.

2. MEETING 4 - CHALLENGING ASSUMPTIONS

The goal in describing campus sexual geography is to understand how the **power dynamics** students experience are reflected in – and shaped by! – the spaces where they live, work, and play. This is more than a question of where sexual assaults happen. **The goal is NOT to map where violence occurs. It is to map unequal access to and experience of space**.

The allocation of campus space doesn't just reflect power relations–it reproduces them. For example, think about the experience of a shared room with bunk beds compared to that of a suite with private bedrooms. Who gets the suites on campus? Are they already powerful people (like seniors)? And what are the policies that determine who lives in that shared room and who lives in that suite? For commuter campuses, who is able to take day classes? How does that influence major selection and time to degree? Where is parking located and how is it allocated by cost or status?

At the end of this meeting the task force should be given an assignment: think about what they would like to focus on, among the many ideas presented, and be prepared to talk about that in Meeting 5.

As the task force shares ideas, everyone will have certain assumptions informed by their perspective. That's good! That's why they're there to begin with! The role of the group leader is to zoom out and keep everyone attuned to this bigger picture. Here are some considerations and reminders that may help challenge the assumptions in the room:

- Getting the **broadest, most inclusive** student and stakeholder participation possible will strengthen the process.

- Power inequalities in the room may influence people's willingness to share or speak up. Regularly return to meeting rules and guidelines (and to the resources provided in Appendix 2). Breakout sessions can also create contexts in which task force members are more comfortable speaking. Those sub-groups can (anonymously) report back what was discussed in their group.

- **Perception vs. reality**: Perceptions of how violence occurs may not align with what comes out of your task force process. This gap between perception and reality is tied to longstanding myths surrounding sexual violence and reporting processes that privilege students with more institutional and social power. It is nearly impossible to have a complete picture, but even so it is important to dig deeper, pushing well beyond results or findings that feel expected.

3. MEETING 5 - NARROWING FOCUS

After getting it all out there, it's time to focus on a part of the picture that feels actionable. This narrowing meeting creates "buckets" or themes the task force will concentrate on for the rest of its time. Start by setting realistic expectations. If there is a lot of institutional buy-in, a task force might be able to take on lots of different kinds of spaces, and dedicate time for each one. If not, focus on something that's actionable. Who is in the room may influence what the task force should do. For example, if no one on the team is part of dining services, it's less likely that the task force can implement effective solutions that focus on that part of campus life. The task force can limit its focus to one or more of the five categories of spaces (residential, social, virtual, programmatic, and public), to a specific type of space within those categories, to a population it wants to reach (i.e. first year students), or to a lens it wants to use in drawing its campus map (see Appendix 3 for some ideas). If the task force chooses more than one focus, or wants to focus on a broad category, anticipate having several more meetings, each dedicated to the identified theme.

How to narrow:

As the group narrows its focus, make sure to return to its decision-making rules. Remember that power is often about the ability to define what "the problem" is. Don't just be aware of this challenge. Actively raise it within the group and encourage task force members to talk about it openly.

Meeting 6 (and potentially 7, 8, ...): Filling in the details

The aim of this next meeting (or set of meetings) is to thoroughly describe the geography that the task force has decided to focus on. At this stage, the aim is *still* not coming up with a solution. What the task force is trying to do is include as much detail as possible, collecting stories from the diverse stakeholders gathered together. The guiding focus is on the interrelationship between space and power. The task force can also reach out, before this meeting, to other community members to have as much information as possible.

Some ideas for getting more information from people not in your group:

If you want to engage even more community members, or gather even more information from campus, there are further steps you can take. These are not required, but they can help provide an even richer sense of campus life, and help the task force consider things they may have not, until that point.

- Partner with a faculty member who could potentially teach *Sexual Citizens*. Discuss the possibility of the class doing an exercise where they map the sexual geographies of campus. See how it compares to your findings.

- Conduct focus groups and walkthroughs with representative groups of students, particularly students who disproportionately experience (and perhaps commit) violence will provide more powerful insights into the structural and social dimensions of a space.

- Use existing 'experts' on student life (like residential advisors) to provide input through small-group discussions.

- Develop a digital strategy for collecting input, using whatever platform most students are on. (Just remember to explain that this is not about designating certain spaces as risky or safe, but about space and power).

In Appendix 3, we have provided a list of resources that might help with this process of filling in the details. There are lots of options to help with this process. Granularity is great! Don't be afraid of getting into the weeds!

The questions you ask should address the **physical, social, and institutional power dynamics** students experience in the spaces you're describing. So in this meeting consider making lists of these three dimensions of power. They can help orient the description of the sexual geography that the task force has chosen to focus on. Take the example of two residence halls:

- **PHYSICAL:**
  What is the experience of a shared room with bunk beds compared to a suite with private bedrooms?

- **SOCIAL:**
  Who lives in that shared room and who lives in that suite? What are the relationships between those individuals and their communities like? What are the experiences of shared spaces within those rooms? And how do the shared-room dwellers interact with the suite-dwellers, and vice versa?

- **INSTITUTIONAL:**
  Which policies determined who lives in that shared room and who lives in that suite?

PHASE 3 - KEY TAKEAWAYS

- Educate and empower your team with the resources necessary to build a shared mission and vision.
- Collaboratively and inclusively describe the interrelationship between space and power on your campus.
- Narrow your focus and dig deep, capturing a wide range of understandings and experiences. Think about the map of the Columbia University cafeteria that Tian Griffin made (see below). It highlights the kinds of unwritten shared social rules about who uses which space that the task force is seeking to uncover.

The illustration below is a Columbia adaptation of the cafeteria map from the movie, Mean Girls. The image was created by Tian Griffin and appeared in the student newspaper, the Daily Spectator.

By Claire Easton, Stephanie Koo, Helen Yang / Columbia Daily Spectator
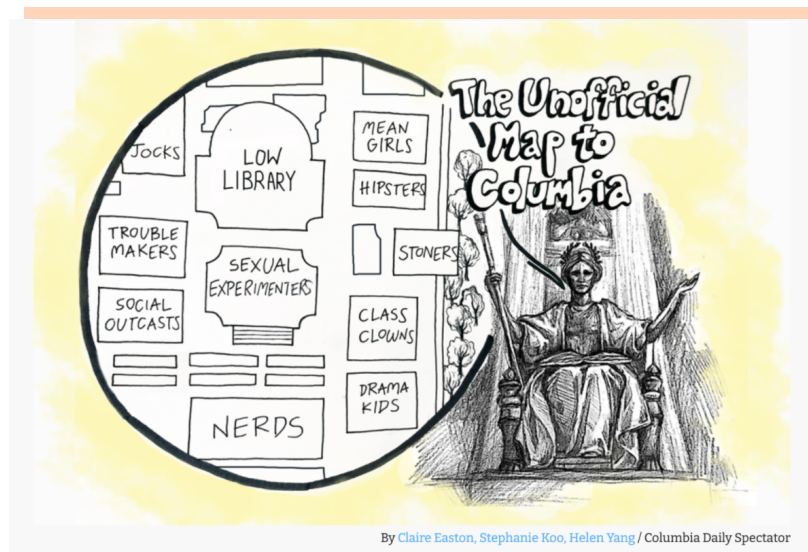
**The next step is to CHANGE: to use the task force's description
of its campus' sexual geography to advance community equity as
a sexual assault prevention strategy.**

—

Phase 4:
Change

"Our goal is to impel action, but from a position of empathy and understanding, rather than fear."
- *Sexual Citizens*, **p. xiii**

The task force has described its campus sexual geographies.
Now what does it actually do?

The point of this process isn't just to understand how sexual geographies are making sexual assaults more likely. It's to enact changes that can improve the lives of everyone in your community. This is going to be hard. But the task force has done so much already! By this point a variety of stakeholders should be committed to this process and have a reasonable amount of goodwill that will help enact real change. The process leading up to this point is designed to make effective changes more likely. Some of the people and offices that have the power to make change happen will have been in the room as the process unfolded.

Step 1: Policy Review

A policy review is the first step in creating a plan for change. This means developing a clear account of existing policies and practices related to sexual geographies the group has focused on that:

- Address diversity, equity, and inclusion;

- Establish social norms and hierarchies;

- Allocate resources and create formal and informal ownership of space and power; and

- Prevent sexual violence.

This review should include members of the task force and where necessary, external points of contact for each policy/program. At this point the task force may want to create working groups which focus on building connections with different campus stakeholders, gathering insights from them, and reporting back to the task force as a whole.

It could be helpful to ask task force members to tell stories about times they were part of effective and ineffective policy changes, and gather lessons from that. Because each institution is different, task force members will have to do some exploration to figure out how change is possible in their particular context. It may also be useful to consult with the Office of the General Counsel at your institution, or to find out if there is a formal process in existence for changing campus policies.

Some policies may require more work to change than others. For example, campuses might want to change the policy on campus parking. This would mean consulting with a range of stakeholders, from transportation, to safety and security, to community liaisons (those on campus who are connected to people in the municipality who are responsible for roads, traffic, etc.).

This toolkit can't fully outline this process for the diverse range of institutions that will use it. But it can provide examples of questions to ask, and policies—formal and informal—that are important to consider. Think about the different kinds of spaces that exist on your campus, and how access to and control over those spaces are decided:

- **RESIDENTIAL SPACES:**
  What kinds of housing spaces exist on campus? How do those spaces differ in terms of privacy, prestige, access to social spaces (e.g. suites with living rooms)?

  - **What policies determine who gets which space?** This could include: room draw, roommates, athletics policies, affinity housing options, variable pricing models, Greek life, and other implicit and explicit sorting mechanisms.

- **AFFINITY GROUP SOCIAL SPACES:**
  What are the social spaces that are only accessible to certain groups of students, and who are those students? How do these spaces differ in terms of size, quality, location, control, alcohol distribution, music choices, and prestige? To what extent does the ownership of these spaces facilitate campus equity?
    - **What policies dictate which groups are eligible for social space, and how those spaces are distributed?** This could include: social space allocation and sharing policies, alcohol licensing, party licensing policies, student life budget allocation policies.

- **AFFINITY GROUP PROGRAM SPACES:**
  How are affinity groups assigned space and budget for programmatic activities, such as speakers, trainings, trips, etc.?

- **PUBLIC SPACES:**
  What are the policies that exist in public spaces that make them more or less accessible to students?
    - **Policies could include:** Dining hall hours and access, lounge access and restrictions, libraries, the rules regarding access to commercial spaces on campus, rules about swipe-in access, etc.

- **OTHER POLICIES TO CONSIDER:**
  Orientation, student health, transportation.

An example of how policies can create inequalities:

GREEK LIFE POLICIES:
- **Alcohol policy:** Alcohol is banned in sororities that belong to the National Pan-Hellenic Council (NPHC). This creates a climate where often fraternities play a more dominant role in campus social life and control alcohol distribution. However, there's disagreement among students on what effect changing this policy would have. Additionally, not all sororities are affected, for example, historically Black fraternities and sororities have the same national governing body, the NPHC.

Step 2: Brainstorming Solutions

After conducting the policy review and inquiry, reconvene the task force to report back and start brainstorming solutions. We encourage an iterative process. We also encourage you to invite seemingly radical solutions, particularly at first. Even fantasy situations can be helpful to spark creativity. Imagine that resources were not a constraint. Want to build a totally different residence hall or student center? You can! What would it look like, and what kind of spaces would it have? Then think about why that solution is so desirable, and how elements of it could be realized within more realistic constraints.

Effective brainstorming requires a recognition of what the group dynamics have been, up until this point. If in previous meetings there have been silences from particular members of your task force, it may be wise to give those members space in smaller settings to talk about their ideas.

Creating subgroups to generate ideas that will be presented to the full group can spark creative and ambitious next steps. These subgroups could be created randomly, or they could be constituted by gathering together those task force members who feel most comfortable with one another—for example, a group of all students.

This brainstorm process can be fun. Subgroups could be asked to prepare a 5 minute "pitch" to the broader group. Or they could give two pitches—one that has a budget of $0 and another that has a limitless budget.

It's important that groups don't think about ideas as "winning" or "losing" but instead as resources that the entire task force works on. If the task force uses the "pitch" idea, recognize that elements of different pitches could be combined for an ideal solution.

One idea is for students in the group to pair up with administrators and walk them around campus, sharing how spaces are used at different times of the day. (Obviously, this should be at a time like a weekday morning, when students are less likely to be actually socializing.)

The process should be iterative for two reasons:

1. **RECOGNIZE THE ENORMOUS IMPORTANCE OF STUDENTS TO THIS PROCESS.**
   Administrators can design a wonderful plan, but if it doesn't fit within the ways that student life works on a day-to-day basis, it will never work. Solutions need a validity check with student members.

2. **SOLUTIONS WILL REQUIRE ENLISTING THE WORK OF OTHERS WHO ARE NOT PART OF THE TASK FORCE.**
   So as the task force begins to settle into an idea, it needs to reach out to those who would be responsible for implementing that idea, gather their feedback and their buy-in, and redesign the solution in light of community feedback.

Step 3: Making Change

Change can mean a lot of things. From creating awareness, redistributing ownership or access, changing policies, or reorganizing the spaces that most impact students' sense of belonging, particularly students who come to campus with less access than their peers. Here are five contexts to think about when your task force pivots from diagnosing the problem to realizing creative solutions. This is not an exhaustive list. We provide it for you to think about the types of changes you might consider, drawing upon the experiences and ideas of other campuses.

1. SPATIAL REGULATIONS:

Often, unexplored regulatory frameworks are relics of ambiguous, imprecise, or outdated decisions. Exploring the justifications for a campus' inherited spatial regulations might reveal some unnecessary or archaic protocol worthy of revision.

2. RESIDENTIAL SPACES:

Change priorities in housing lotteries and create more affinity housing options for marginalized students to redistribute power and resources in a way that responds to students' experience.

- **Housing Lotteries:** <u>The majority of sexual assaults occur during a student's first six to eight weeks of school because of the disproportionate social and structural vulnerabilities first years face during this time</u>. Therefore; one way to change this, as Middlebury College has done, is to reorient housing lotteries to be intersectional: favoring first years, and paying attention to the other inequalities students are contending with. By giving preference for the more spacious and influential housing options to students with the least structural power, you can reshape existing power dynamics.

- **Affinity Housing:** As illustrated by the Mexican Independence Day party story in *Sexual Citizens*, affinity housing (housing that is structured around a shared and meaningful identity) and social venues can create safe spaces for the most marginalized, and therefore vulnerable, students. Hundreds of schools across the country, for example, now offer some form of Gender-Inclusive Housing (the Campus Pride Index list goes from University of North Alabama to University of Wyoming), and Rutgers, University of Maryland, Lehigh, and MontClaire State all have LGBTQ-specific housing and residential policies. Some campuses, such as University of Michigan, have created alternative housing options to meet these students' needs.

- **Affinity Social and Housing Spaces:** Spaces such as fraternities and sororities that combine both living and social space can be incredibly important for students searching for a sense of belonging. However; they have also been associated with harms. Those harms aren't because they are affinity spaces. Instead we would point to two reasons that explain some of the harms. First, that they are affinity spaces that are primarily used by already powerful students, augmenting inequalities. And second, other kinds of affinity groups do not have such spaces, again, augmenting inequalities. There are many different types of affinity group spaces. For example, Oberlin College offers a wide variety of identity-based communities, language houses, co-ops, and themed living/learning spaces. How can space on campus help create a greater sense of solidarity and belonging in ways that

3. SOCIAL SPACES:

Modify features, policies and practices to prioritize access to social spaces for disadvantaged populations, and to encourage the formation of new social norms. This could include reorganizing event licensure and student life budget priorities, or redistributing ownership or sharing existing spaces to ensure that under-empowered and under-resourced communities are given equal opportunities to access and control safe events.

- The Valor study also includes guidelines on using design to heighten the sense of ownership, pride, and care, such as: removing areas of concealment, increasing light, strengthening access boundaries and controls, etc.

4. PUBLIC SPACES:

With all else equal, improvements to public spaces will most directly benefit students who are most marginalized in private spaces. So, how can your public spaces better serve the communities that have the least access to and ownership? How can public spaces promote a sense of belonging, or even joy? (See for example, the image of a slide in Washington, D.C.'s Martin Luther King Jr. Memorial Library – because slides are fun!) Principles of placemaking and participatory design have been used in urban planning and public health to serve this exact purpose, consequently improving physical and emotional health in a variety of public settings (such as schools, housing, and domestic violence shelters). William (Holly) Whyte and Jane Jacobs helped create this approach, explained by the Project for Public Spaces as a collective reimagining and reinvention of public spaces which centers "the physical, cultural, and social identities that define a place and support its ongoing evolution." Here are some open-source resources that may be useful:

- The Project for Public Spaces: Eleven Principles of Placemaking: a simple and effective overview of the approach to placemaking that provides some useful and efficient tips to help get you started.

- The Project for Public Spaces: Case for Healthy Places: a deeper dive into a peer-reviewed, evidence based report on ways that diverse communities have used placemaking to improve public health. Many approaches listed do not require costly changes to the physical landscape, and some are as simple as hosting exhibits and events in public spaces that represent the diversity of cultures who use these spaces.

- The Gehl Institute Tools, including: Inclusive Healthy Places Framework: The Gehl Institute offers a number of free tools for data collection and analysis, which may be useful during your describe phase. They also offer comprehensive reports like the Inclusive Healthy Places framework which provides a comprehensive guide to their framework for building health equity through placemaking, as well as examples of how it has been applied in different communities globally. This is an incredibly useful and detailed guide that includes many low-cost and free modifications to public spaces that build healthy communities.

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We should add more joyful experiences to public spaces, like slides added to existing stairways. This one in the newly renovated Martin Luther King Jr. Library in D.C. is a beautiful example.
mecanoo.nl/Projects/proje...

7:23 PM · Nov 27, 2021 · Twitter Web App
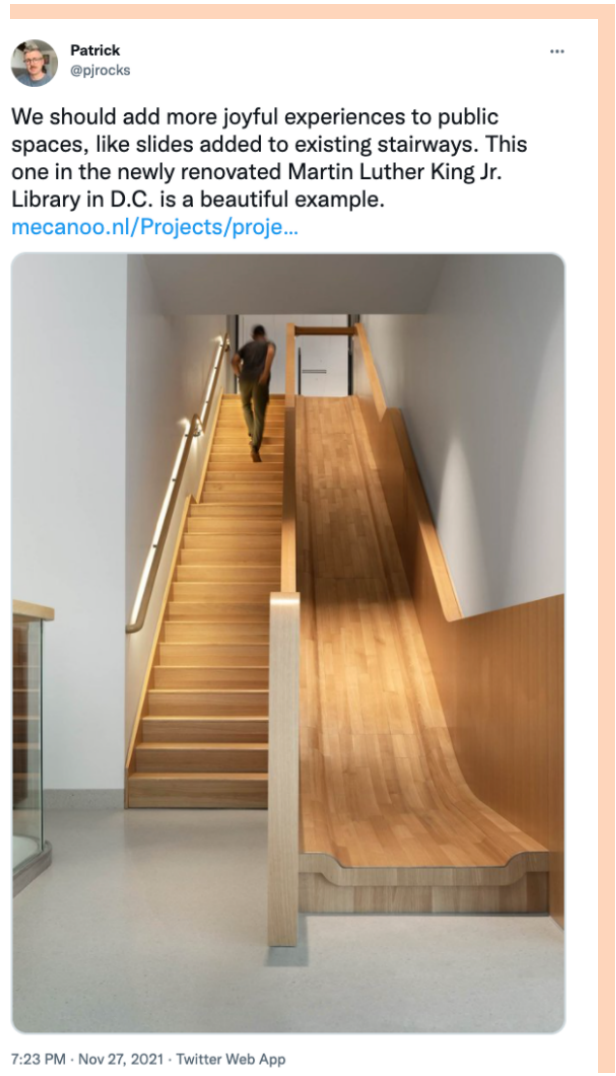
5. DIGITAL SPACES:

It's likely that most of the digital spaces used by students on campus are regulated off campus and will be difficult to change. However, making students aware of unequal regulations can be a great way to spark activism and encourage people to seek or create alternative digital networks. After all, the most prominent digital networking spaces were created by college students. Your students could be the people who create their replacements!

PHASE 4 - KEY TAKEAWAYS

- Review existing policies that might reveal unnecessary and antiquated regulations that can be easily changed.
- Get a sense of how changes happen on campus and model the groups' response on successful examples.
- Brainstorm ideas for change that allow group members to first think big before getting practical.

- Allow brainstorming to be an iterative process, getting input from community members who would have to implement the idea.
- Recognize that changes to housing and event policies, layouts, and options can create a safer campus climate.
- Make a win-tracker! Preserve the story of the work that you have done, and use every small bit of progress to build support to keep going. This could be a public website with goals and achievements.

Implementing change is a process, not an event. We suggest thinking about that process in iterations, where:

1. The task force identifies something to change, grounded in an analysis of sexual geographies and a commitment to equity. Figure out how to make that change possible. Start small and learn from that experience, rather than taking on something huge at first.

2. Evaluate how it went. This evaluation is both of the change process itself, and of the potential impact of the change. That means talking to students and stakeholders.

3. Report back to us! Use the slack channel to tell us and others going through this process what you did and how it went. The aim of hearing back from participants in the SPACE process isn't to judge whether people did it right or wrong. Instead it's to use everyone's experience and knowledge to help each other.

4. As we learn lessons about this process we can share these valuable, practical insights with one another (maintaining privacy, of course). Communities that are doing this work can learn together. And we can refine our processes and this toolkit in light of practical experiences from a diverse range of learning communities.

5. After the first experience of going through the process and evaluating how it went, the next step is to start again. This means getting a greater institutional commitment, convening a new group of stakeholders (with some who have experience from the last round), considering campus life by gathering new information, new insights, and taking on bigger changes grounded in past experiences, and hopefully, successes.

This is a big undertaking. But tackling big problems with new insights, a commitment to equality, and building better communities is what educational institutions are all about! It may seem like an impossible task, yet we were made for this. We're so excited you've decided to take this journey. We can't wait to hear how it goes. **And we are thrilled to learn together, using SPACE as a way to create communities where everyone can thrive.**

***

Appendix 1:
General Timeline & Workflow Plan

You and those you gather together are the experts on your campus, so select the ideas and practices from this toolkit that make the most sense for you. Or use the framework to develop your own innovative approach. Each campus' unique social and physical landscape will influence how you work both to understand and to change it.

While each campus is unique, any effort to understand, reimagine, and transform your campus' sexual geography will require two things:

- A four-phase approach that secures *commitment* from senior level administrators, *convenes* a group that includes both students and staff or administrators from a variety of divisions, including those with the power to make policy change, teaches them to *consider* the sexual geographies of their campus, and empowers them to join in *change*.

- A living approach that reflects the evolving nature of your school's population and landscape, with built-in opportunities to review and revise the work.

Here's a sample timeline (which of course may vary):

Sample Timeline

MONTH	1 2 3	4 5 6 7	8 9 10
YEAR 1	**COMMIT AND CONVENE:** Secure commitment from administration. Convene & empower institutional and student stakeholders. Hold meeting to introduce group to each other and the process.	**CONSIDER:** Meetings 2-6+. Diagnose the problem and focus on an area of campus life. We suggest 2 hour meetings every other week.	**CHANGE:** Review policies. Brainstorm solutions. Implement policy changes.
YEAR 2	**EVALUATE:** Building additional partnerships to monitor and evaluate progress.		
YEAR 3	Celebrate accomplishments and rest!		
YEAR 4+5	New cycle of SPACE toolkit work.		

Workflow Plan

WHO: Staff with training in sexual violence prevention and diversity, equity, and inclusion on college campuses that have made a commitment to move from Title IX compliance to transformation: making their campus more equitable by reorganizing the ways social and physical spaces are used, experienced, and distributed.

1. COMMMIT: GAIN INSTITUTIONAL SUPPORT

- ☐ Reach out to high-level administrators to introduce them to this process.
- ☐ See what kinds of institutional support you can get for the process.

2. CONVENE: CREATE A SPACE WORKING GROUP COMPOSED OF STUDENT AND STAFF STAKEHOLDERS.

- ☐ Build together a group of institutional stakeholders who affect how space is used and distributed to form one half of your working group. Secure senior-level administrative support for their participation.
- ☐ Build a representative group of student stakeholders who occupy diverse positions of power and privilege to form the other half of your working group.
- ☐ Meet with each group individually, explain the process, share this toolkit, and get feedback on who is missing who should be invited to participate.
- ☐ Bring the two halves of your working group together, begin to establish norms that recognize existing power differentials and address the uneven ability of members to speak and be heard (see Appendix 2 for more details).

3. CONSIDER: BUILD A COMMON UNDERSTANDING OF SEXUAL GEOGRAPHIES AS A CONCEPT, DESCRIBE THEIR ROLE ON YOUR CAMPUS, AND ESTABLISH A SCOPE OF WORK.

- ☐ **Meeting 1:** Introduce the team, establish ground rules to promote safety and inclusivity, provide an overview of the concept of sexual geographies, and ask everyone to start applying this concept to your campus.
- ☐ **Homework:** dive deeper into the idea of "sexual geographies".
- ☐ **Meeting 2:** Build a common language and understanding of what sexual geographies mean on your campus, paying attention to these 5 dimensions of space: 1) residential, 2) social, 3) virtual, 4) programmatic, and 5) public.
- ☐ **Homework:** Think about how the concept of "sexual geographies" can make sense of campus life.
- ☐ **Meetings 3-5:** Outline your next steps to map your campus' sexual geographies in 3 parts:
    - ☐ **Meeting 3:** Give everyone a chance to express their understanding of and priorities for mapping sexual geographies to enhance equity and prevent violence.
    - ☐ **Meeting 4:** Reorient these ideas around the unequal access to and experience of space.
    - ☐ **Homework:** Taskforce members should think about what they want to focus on.
    - ☐ **Meeting 5:** Narrow your focus onto the dimensions of your mapping process to the areas of your campus' sexual geography that you have the capacity to map and take action on your findings.
    - ☐ **Homework:** Consider reaching out beyond the task force to gather more information about the aspect of sexual geography that will be the focus of future meetings.
- ☐ **Meetings 6**+**:** Map the physical, social, and institutional power dynamics students experience in the spaces you've chosen to focus on (see Appendix 3 for resources).

4. CHANGE: MAKE CHANGES IN THE SOCIAL AND PHYSICAL LANDSCAPE TO PROMOTE EQUITY.

☐ Conduct a review of relevant policies and practices affecting your target spaces.

☐ Brainstorm possible solutions to address the barriers to equal access the task force has uncovered.

☐ Gather feedback about possible solutions from community stakeholders.

☐ Create a plan of action based on the task force's findings, utilizing the resources in the toolkit to draft new policies and practices that build more equitable ownership, safety, and belonging for minoritized students within your target spaces.

Once this process is completed, build partnerships either internally or externally to help evaluate progress, and potentially start again, in order to take on additional elements of campus life.

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Appendix 2: Tips on Running Meetings

Developing a shared vision and mission will require creating **a space where everyone feels recognized and free to speak openly**. Discussions of sexual violence can raise painful memories and thoughts. Many people in the room will have experienced sexual violence personally, and everyone has an emotional connection to this issue. If your team includes students and staff, staff may be mandated reporters for violations of Title IX or other state and federal laws; this can substantially inhibit conversation. To create a space where your team can speak openly and honestly, we encourage you to think about five things:

1. **ACKNOWLEDGE THE EMOTIONAL IMPACT**
   of these conversations and our word choices, regardless of their intent.

2. **EXPLAIN MANDATED REPORTING PROCESSES AND RULES CLEARLY**
   because your goal as a team is to understand students' lived experiences, you may choose to separate students and staff at different points in the conversation, or offer students who would prefer not to report their experiences some options, such as speaking in hypotheticals or providing anonymous forms.

3. **ESTABLISH SHARED NORMS AND A SHARED LANGUAGE**
   that center the needs of those with the least privilege. Shared norms could include:

   A. Confidentiality: Anything discussed in the room stays in the room. If something mentioned needs to be referenced externally, be sure to 1) explain why, 2) get the express consent of everyone involved, and 3) take care to anonymize the content or give credit, depending on the situation, as well as group and individual preferences.

   B. Safety: You may not be able to protect all forms of speech, which should be made explicit (see #2, above). However; you can establish some norms that make it safer to speak honestly. It is important to acknowledge existing power differentials. Some students may have encountered harm from some administrators (or their colleagues) involved in this process, regardless of intention. Because it is your goal to address institutional harm, you want to **collectively** understand the constraints on speech, and set norms that reflect what students need to feel safe to express their concerns to staff. There are also power differentials among many in the room, and it's important to acknowledge and validate not just students' but also staff's humanity and constraints. Some helpful resources are:

   i. Setting some intentional practices to build a shared feeling of equality. For example, get everyone to commit to using first names, regardless of their position at the university, or have members speak in reverse age order. For more on this, see "Thinking about Group Dynamics" in Storch et al., "[A Governance Challenge Presents a Governance Opportunity](#)."

   ii. Framing ideas with "I" statements to acknowledge different perspectives.

   iii. Responding equally to emotional and "factual" content.

   iv. [Asking clarifying questions.](#)

   v. [Creating space for empathy before responding](#).

   vi. Using norms of **Step up, Step back**. That means asking group members to step up when they feel their voice or the voice of those who haven't been speaking has not been heard. And stepping back when they find they've been talking a lot. This is a process of consciously making room for less powerful people, and those who often feel like they don't have "permission."

   .

vii Create a process where those who don't feel comfortable speaking in a meeting can still reach out to those running meetings to provide information or feedback. This can be as simple as an email address. It will help make sure that silences in the room can be corrected by allowing voices to speak in different ways.

What works for your group will depend on your own context. We encourage you to share these resources widely, and dedicate some of your early meetings to discussions of what principles are best for organizing group discussions.

4. ENSURE THAT A MEMBER OF THE CAMPUS ADVOCACY TEAM OR COUNSELING SERVICES IS AVAILABLE
during every meeting and make it clear before each start that anyone may step out at any time to be alone or speak with the counselor confidentially.

5. PROVIDE A RESOURCES SHEET
to participants that outlines on-campus and off-campus resources should they wish to reach out for help given the challenging nature of the conversations.

6. STRUCTURE YOUR CONVERSATIONS TO BUILD RAPPORT
and ease into more sensitive topics, and provide frequent breaks.

7. MAKING DECISIONS
Finally, the group process isn't just about how to run meetings. It's also about how to make decisions within meetings. We suggest three academic pieces to help you through this process:

- McAuliffe, Donna, and Lesley Chenoweth. "Leave no stone unturned: The inclusive model of ethical decision making." *Ethics and social welfare* 2.1 (2008): 38-49.

- Karen Bell, Mark Reed, The tree of participation: a new model for inclusive decision-making, *Community Development Journal*, 2021;, bsab018, https://doi.org/10.1093/cdj/bsab018

- M. Gupta, "Consensus Building Process in Group Decision Making—An Adaptive Procedure Based on Group Dynamics," in *IEEE Transactions on Fuzzy Systems*, vol. 26, no. 4, pp. 1923-1933, Aug. 2018, doi: 10.1109/TFUZZ.2017.2755581.

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Appendix 3:
Thoughts on Mapping Sexual Geographies

Two approaches that may be most accessible:

- **PHOTOVOICE:**
  [PhotoVoice](#) tells stories that center marginalized groups through participatory photography. Everyone who has a phone with a camera can participate in this.

- **FOCUS GROUPS WITH TARGET POPULATIONS:**
  Some task forces may have extra bandwidth to gather their own information. If task force members have experience with qualitative research methodology, they might consider conducting focus groups with students who are disproportionately at risk to either experience or commit sexual violence. These focus groups could assess those students' ownership, comfort, and safety in different spaces. This would reveal how ownership over and power within the spaces where students socialize, live, work, have sex, and experience violence is unequally distributed. By modifying [safety walkthroughs](#) or [Shifting Boundaries Hotspot Mapping tools updated by Valor](#), you can conduct interactive exercises for these focus groups that compare the structural and social power dynamics that dictate each group's experience of different spaces.

Exciting but more technologically complex approaches:

- **INTEGRATING STORY CAPTURE INTO THE BUILT ENVIRONMENT:**
  Adding instruments to record feedback on how students interact with the spaces they live in and travel through can provide efficient, real-time insights into the student experience, and may capture untapped perspectives. These instruments can be low-tech, like stickers or post-its, or could be set up to use QR codes for students to comment digitally on spaces as they are in them.

- **URBAN PLANNING RESOURCES:**
  Tools informed by placemaking and participatory design principles can help reveal and assess the quality of a place. The [Project for Public Spaces](#) underscores four key criteria: access and linkages, comfort and image, uses and activities, and sociability. A few open-source tools include: the [Project for Public Spaces' Place Diagram](#) and [the Gehl Institute](#).

- **CORTICO:**
  Cortico and MIT's Center for Constructive Communication have partnered to create a [platform](#) to facilitate audio story capture, analysis, and dissemination tools that center underheard voices to support a more equitable dialogue. Though the platform is not free, organizations can apply for subsidization at the [Fund for Public Conversation](#).

Food for Thought:

- The [Situational Crime Prevention (SCP) or Crime Prevention through Environmental Design (CPTED)](#) framework laid out in Valor's 2020 report may be a useful tool to help frame your questions.

Appendix 4:
Stories from *Sexual Citizens*

This appendix contains the stories of Charisma, Octavia, and Austin, exerpted from *Sexual Citizens*. These excerpts represent real-life students stories that reflect different experiences of sexual assault. We present them with the aim of helping task force members see how attentiveness to the concept of sexual geographies transforms part of our understanding of sexual assault.

Charisma

Race as well as gender structures space. At Columbia University, socializing spaces and music choices that reflect the tastes and preferences of high status white students predominate. This drives some students of color to seek partners off campus, away from classmates who might remember their bystander training and who, because of community norms or solidarity, might intervene to help them. Charisma, for example, felt turned off by the mainstream campus social scene that she saw as 'fratty white guys who drink too much, have bad taste in music, can't really dance, and go for skinny girls with straight hair and thin noses.' She was also frustrated by the relatively small numbers of Black and Latino men, who she deemed more suitable partners, on the Columbia campus.

Charisma, a Black Latina senior from Albuquerque who was a varsity athlete, was quick to answer the question about what she'd choose for her one college "do-over" if given the chance. She'd love to have back one Saturday night toward the end of her freshman year. She'd met Raymond, who lived out in Brooklyn, through her roommate. After texting back and forth for weeks, he invited her out to his place. There were so many signs that it was not going to be a good night: the subway she was planning to take was closed for the weekend, making her trip almost twice as long; on the walk from the train the skies opened up, a torrential downpour soaking her to the bone, and her cell phone died so she couldn't call him for directions when she got lost. Miraculously, she had his number written on an actual piece of paper, and some change in her pocket; she was lucky enough to find a bodega with a working pay phone, and called him to get her. Sodden and demoralized, she was happy to peel off her shoes and socks and dry out. They watched tv, did a couple of shots, smoked a joint, and then started to make out. She was fine with all that, but clearly had not been expecting more to happen. She was firm in providing us with "evidence": she was wearing "granny panties" and had not brought her oral contraceptives or even a toothbrush. But more did happen. She "didn't really want it to" and she tried to convey that with her body language. When he reached in between in her legs:

> I wasn't expecting that to happen. So I was like "Okay, let me move his hand." And then his hand didn't move so I was like oh, okay, this is happening. So then it's like he started taking his clothes off, I started taking mine off, just like let it happen. 'Cause it's like I didn't know how to say no. 'Cause it's like my way of saying no was through body language, trying to move his hand, 'cause that's what had worked in the past to slow things down if I didn't want to be touched in a certain area. But in this moment that didn't work. So it was like my plan, I never had a plan B….It's like plan A was always just body language, just move their hand. Like, they get it. But this time plan A didn't work, and I didn't, like, plan B would be saying no. But I just, I didn't know how to, I didn't know what to do….Verbal wasn't really my form of communication….

Charisma conveyed in nonverbal ways that she wasn't enjoying their sex. She told him that it hurt, and at one point when it was hurting she did, in fact, say "No." He may have heard but he didn't listen; instead of stopping, she told us, he just tried a different position. Refusing sex can be awkward, but it's a teachable skill—unfortunately, not one that Charisma had been given an opportunity to learn. Nor, to be sure, had Raymond understood, or maybe even been exposed to, the practice of affirmative consent. There's a distinction between how much someone wants sex (their internal desire) and their verbalization of that desire. Raymond may have had no idea how much she did not want to be having sex. However, his ignoring the way she moved his hands away as he tried to touch her sexually shows a lack of respect for Charisma's citizenship. Being attentive to the other person's right to sexual self-determination—thinking about sex as something to share rather than something to get or to have—may have gone a long way to prevent this kind of encounter. Geography matters too. Charisma was stuck in Brooklyn late at night in a downpour. The train would take almost two hours. Some

students wouldn't think twice about a $60 cab ride home, but she wasn't one of those students. Charisma told us they had "sex," as she called it, twice that night and then once in the morning. Perhaps anticipating our curiosity about the second and third times, she told us, unprompted,

> I didn't stop it the other times 'cause I was like, well, we already did it once. What's another time? I just, like, literally had no energy to open my mouth or say anything, I just laid there....It was just sad. I was probably thinking about my other friends who have casual sex...and like it was never a big deal for them when they do it, and maybe it's like really not a big deal. Or I was feeling ho-ish, or easy, or whatever....I was like, my friends do this and it's fine for them, so it's not actually a big deal.

Octavia

Octavia was thrilled when she got the invitation to hang out Saturday night at one of the most prestigious fraternities on campus. She hadn't previously needed an invite to get in the door, but receiving one conveyed that she'd been noticed. When they host parties, fraternities have one member work the door—often to keep out other men, but also to regulate the kinds of women they want inside. "Oh, I'm cool!" Octavia thought to herself, upon opening her personal invitation to the party. "I'm getting invited to ABK! I'm just a freshman, and I got an invite to ABK! That's so cool."

Octavia couldn't believe her further luck when she was asked to go hang out upstairs. There she was, doing shots with some of the hottest guys on campus. She felt special, chosen. She wasn't some random freshman no one knew. She was with the in-crowd. Everything was fine until it wasn't. As if on cue, all the guys except one got up to leave. They wanted to go back down to the party, they said. The only man still sitting, a senior, told Octavia to stay for one more drink. She wanted to leave with the group but felt pressured to stay. It would be rude to leave. She might not be invited again, ruining her chances of being able to hang out with the cool guys. She decided to stay for one more drink. The man started kissing her; she didn't really mind but she wasn't really into it. Then he forcefully removed her clothes and raped her.

Octavia never reported what happened. "I was embarrassed because I was so dumb to go there in the first place and not realize that I was only going there to have sex with this guy... I felt so dumb for not knowing why I was invited." She blamed herself. She felt she couldn't reasonably say something against a senior from ABK. They were powerful, respected, the "coolest" on campus. Her story didn't have a chance against them. The brothers who left Octavia may not have known that she would be raped, or they may have found it unimaginable that she would be anything other than thrilled to have sex with one of them. They did, however, facilitate her going up to a senior's room, have some shots, and then depart en masse, turning this social situation into a distinctly more sexual one. It may have been a sexual situation, but for Octavia it wasn't sex; it was rape. The group acted to set up this situation, and then its reputation influenced Octavia's own behavior. They didn't do anything to silence her—possibly because even the man who raped her might still think of what happened as sex, not rape. But they didn't need to do anything: the power disparity acted for them.

Some fraternities have reputations for being "rapey"—for being places where you need to be on your guard. The word is an important sign–post in students' symbolic universe—and, critically, one that sometimes points to relative social prestige, rather than actual risk of assault. Fraternity members we interviewed expressed extreme worry over this kind of reputation, because even if they're not the one committing rape, the association creates a stigma. As one brother told us,

> In a fraternity you have to be especially careful because it's so easy for anyone to jump to the "fraternity guy rapist" assumption. And not only do I not want to rape anyone, but if I did it affects every—one I'm associated with!

A reputation for being rapey can be very sticky. A sorority member we talked to described one of the low-status fraternities on campus: "You hear weird stuff coming out of there. They're just weird guys. I wouldn't go there. They guys are all pushy and stuff. I mean, they're always trying to prey on little freshman girls and stuff."

We followed up on this, looking into the reputation and the reality of this lower-status fraternity, which we will call PDQ. We spent time there, and talked to members of the house. The responses were fairly consistent: passionate denial, accompanied by comments bemoaning the struggles the fraternity had with its image. It seemed not to matter what PDQ did. No matter how they responded, they just couldn't shake their reputation. One brother was so animated about this it was hard to keep up with his torrent of words—

> Someone posted on social media that a woman was raped at our house. I freaked out. Like, did I join the wrong frat? Who are these people I'm in with? Did I make the wrong decision? I had made the drinks and was handing them out that night with my friend! I looked into it, and talked to all the guys, and no one did that! I make all the drinks, and I make them kind of weak, just because I don't want someone to get drunk fast and feel that and think they got roofied. Our brothers would rather not get laid than to do that. I mean, I know they're not getting a lot of sex, but they wouldn't do that.

High-status frats like the one where Octavia was raped tend not to have reputations for being rapey. One of the ways—at least at Columbia, but also increasingly elsewhere—that a male-dominated or all-male organization gets to be "high-status" is to brand itself as feminist, or at least gender-egalitarian. Many fraternities have gay members, demonstrating their opposition to homophobia and heteronormativity. However, we learned of instances of assault in both the high- and low-status frats. Being high-status makes a fraternity's members sexually desirable—or at least socially desirable for sex. This can make it a far greater challenge to report or talk about sex as "unwanted." Sometimes it is even hard for someone who is assaulted to perceive the sex as unwanted—they are weighing the unpleasantness of the experience against the lure of recounting having been with a prized social object. High status provides men with some protection against allegations of sexual assault because it's harder for others to imagine that sex with such men could be unwanted. This leads to a disturbing conclusion: the reputation of the group may help protect its members from accountability.

Again and again, we saw how explicit and conscientious group members were about protecting or improving their status. We heard high-status groups call lower-status groups "rapey," "pushy," "sexist," or "creeps," to publicly affirm that they were none of those things. Groups use their reputations to preserve their status and to dominate other groups lower in the hierarchy. We saw this dynamic very markedly with fraternities and athletic teams, and much less so with identity-based groups, organized religious life, or other kinds of extracurriculars. It's possible that high-status people and groups are actually less likely to commit assault—that is, that their status reflects actual behavior that is more socially desirable, and that conversely the rape stigma attached to lower-status groups reflects actual behavior, not relative social prestige. It also could be the case that being high-status means that when people commit assault, they're less likely to be reported, and if a report is made, the accuser is less likely to be believed. Or, as we believe, a combination of all of those things is likely true. In Octavia's case, her rapist was aided by his group affiliation in a number of ways, from his brothers getting up to leave so he could be alone with Octavia, to his group's power and desirability, which contributed to Octavia's self-blame for and silence about what happened.

Austin

It had taken Austin several years to grow into who he was when we interviewed him. The Austin who was so attentive to his girlfriend on the Fourth of July [a story we tell earlier in the book] hardly seemed like the Austin in this story from freshman orientation.

My roommate was hooking up with this girl, sex and everything. So they made me sleep in her roommate's place. The first night, she was really drunk, and they were just like, "Oh go over there." And I didn't know what to do so I just lay down next to her and she was like "Oh I just threw up, like, I don't want to do anything," but I kind of just laid next to her for a bit and kind of rubbed her body for a bit. I definitely grabbed her boob, but then I felt weird about it, because I was also drunk, and then I slept in the other bed. And then the next time I saw her because they continued hooking up I went back and we talked for, like, two or three hours about bull-shit. We actually got along pretty well, and like, it was never bad, it never felt like it was wholly a bad thing, but I definitely felt bad about it. I shouldn't have done that. But I was definitely happy that I had slept in the other bed. Glad I did that. I stopped and was like, "Uh, this isn't it." She didn't seem like she was hating it, but she didn't seem like she was loving it. Okay, she probably didn't give affirmative or negative consent. This is a gray area. And I was just like "Okay, this is weird, this is a bad idea." I don't know, it wasn't one of my best moments.

When we asked him how he would categorize the event, he said, "Not something I would do again." When we asked him if it was a "hookup," he was definitive. "No, because we didn't make out. I don't know what to categorize it as. Just kind of shitty." As the interview continued, we asked Austin to share more about his definition of sexual assault and, in light of that, to reflect on what had happened. "I know the definition of sexual assault, like any kind of nonconsensual sexual action, so yes...that would probably be considered sexual assault."

By now, Austin was near tears. He distinguished between rape and assault. "Well, rape in terms of vaginal rape. And sexual assault being, like, a lot of, like, bad touching. Which is I guess what I did. But umm. But also, like. Yeah damn. Well, fuck me, right? Yeah."

He looked crushed, as if he'd just realized something terrible about himself.

The assault that Austin told us he committed during orientation week was typical of many campus sexual assault incidents: he and the woman were both drunk, it was not reported, they maintained a social relationship afterwards but never discussed what happened, and in fact the interview seemed to have been the first moment that Austin considered that it was assault. Austin was desperate to accrue sexual experience, anxious because he thought he was less sexually experienced than his peers. Intoxication clouded his judgment. People know that being drunk is associated with an increased risk of being assaulted, but less remarked upon are the ways in which heavy drinking raises the risk of assaulting someone. An opportunity presented itself, set in motion by the community norm that part of being a good friend is going along with being shuffled into a virtual stranger's bedroom, or having a virtual stranger shuffled into yours. We don't know how the woman in Austin's story experienced what happened. But we do know how Austin felt, after he began thinking about what he'd done. It's hard to think about Austin as a sociopath or a predator. Did he commit assault? In our view, yes. Is he a terrible person? In our view, no.

About Us

Photo credit: Andres Oyuela

Jennifer Hirsch is a Professor of Sociomedical Sciences at Columbia's Mailman School of Public Health. **Shamus Khan** is a Professor of Sociology and American Studies at Princeton University.

Together they are co-authors of *Sexual Citizens: A Landmark Study of Sex, Power and Assault on Campus*, published by W.W. Norton. That work was realized as part of Columbia's Sexual Health Initiative to Foster Transformation, or SHIFT, co-directed by Jennifer and clinical psychologist Claude Ann Mellins. A review in Science described *Sexual Citizens* as "profoundly eye-opening", and the book was listed as one of NPR's best books of 2020.

Kathy Leichter, Engagement Strategist and Impact Producer is an award-winning documentary producer, director, engagement strategist and impact producer with over thirty years working in media. She has extensive experience designing and implementing successful outreach and engagement campaigns for documentary films, and has produced over 400 impact events (in-person and virtual) across the country on issues including racial and economic justice, climate change, mental health, women, civil discourse, juvenile justice, and Jewish identity.
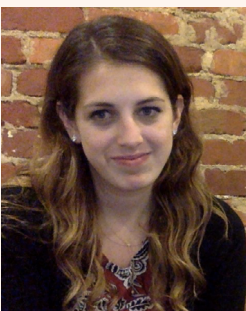
Alex Zeitz-Moskin is currently completing her MPH at Columbia's Mailman School. Prior to graduate school, she worked for 10 years in politics and at non-profits focused on sexual violence prevention and response. From 2016-17, she served as Deputy Director of (then) Vice President Biden's 'It's On Us' Campaign to address campus sexual assault in DC. From 2019-21, she was the Director of Development and Communications at the NYC Alliance Against Sexual Assault.

Implementing Best Practices in Title IX Adjudication and Administration

For Small Colleges

Introduction

- Importance of a proactive, preventative approach in Title IX administration
- Especially for small colleges with resource and personnel constraints

Understanding the Challenges

- Barriers to reporting incidents based on campus culture

- Resource and personnel constraints

- Collaboration between in-house counsel, Title IX administrators, and outside counsel

Best Practices for Collaboration

- Training and education
- Implementing effective policies
- Culture of prevention and protection
- Responding to reports and complaints

Scaffolded Training and Education

- Developing tiered training programs for different members of campus community

- Utilizing limited resources effectively for comprehensive training

- Training Title IX teams when staff play multiple roles on campus – within and outside the Title IX process

- Using in-house and outside legal counsel to maximize training resources
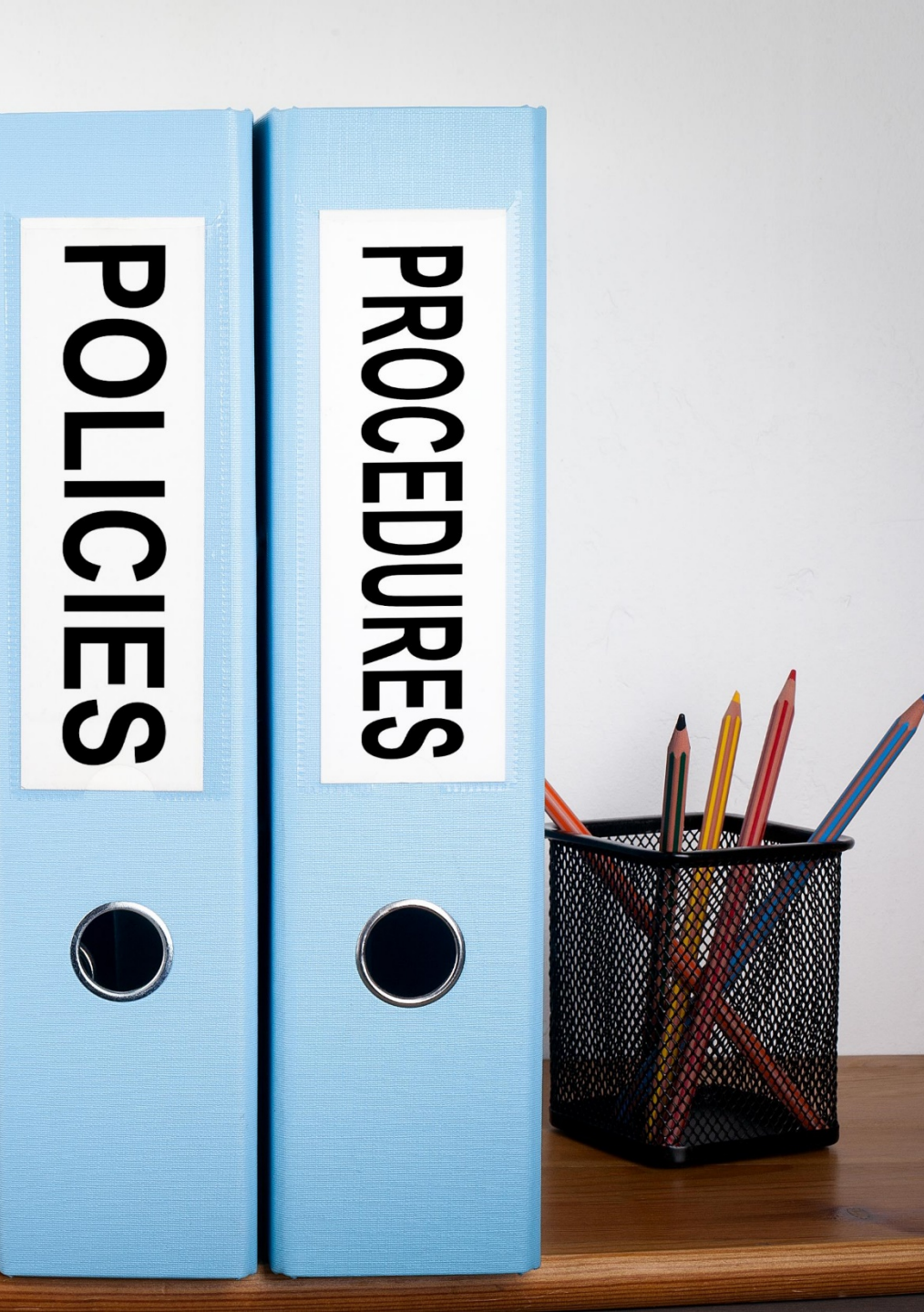
Implementing Effective Policies

- Crafting policies that are both compliant and tailored to the institution's culture

- Developing policies that can be implemented effectively on a small campus and/or with limited resources or personnel

- Ensuring policies are accessible and well-understood across campus

- Using in-house and outside legal counsel in policy development and revisions

Building a Culture of Prevention and Protection

- Understanding barriers to reporting and steps to mitigate such barriers
- Developing collaborations with to enhance the support network for students <u>and</u> employees
  - Local organizations – rape crisis centers, domestic violence shelters
  - On-campus and local law enforcement
  - Healthcare providers and hospitals
  - Mental health providers and after-hours counseling
- Using in-house and outside legal counsel proactively rather than waiting until there is a problem

Responding to Reports and Complaints

Case Study: Things to Think About

Consider how you would handle this at your own institution

- How would you collaborate with your Title IX team and in-house legal counsel?

- When would you reach out to legal outside counsel?

- What are some preventative approaches or lessons learned?

Case Study

2024 Title IX case involving two students at a private small college

- Sexual assault
- Hostile environment counterclaims

**Interactive Q&A:
Practical Strategies for Small Colleges**

1. What are some challenges specific to your institution or your "hypothetical" institution?

2. Do you have strategies for fostering a culture of reporting that have worked on your campus?

3. How have you effectively used your limited resources for Title IX compliance?

4. Other questions or comments?

Building a Solid Foundation: Tailoring Title IX Tools

Leah Gutknecht, MBA
Elizabeth Trayner, EdD
Amy Zavadil, PhD

Broad Categories of Title IX Compliance

- Athletics

- Policy Development

- Response to Allegations of Sex-Based Discrimination

  - Supportive Measures

  - Grievance Procedure

  - Remedies

- Pregnancy and Related Conditions

- Clery Act: VAWA Section 304

- Other Overlapping Laws /Regulations/Case Law/Resolution Agreements

- Campus Training

- Title IX Team Training

Building a Title IX Office/Team

- Audit Checklist
- Organizational Structure/Reporting Relationship
- Ideal Staffing and Alternate Options
  - Use of Internal Teams
  - Use of External Resources
- Office Space and Location
- Team Training

Collaborations

- Title IX Advisory Board

- Prevention/Support/Intervention (SART and/or BIT)

- Community Partners (Advocates, Police, Criminal Process)

- Student Affairs (including DOS, Student Conduct, ResLife, Disability Services)

- Human Resources

- Academic Affairs

- General Counsel

- Student Government/Orgs

- Athletics

- Clery Compliance Officer

- IT, University Relations

- Shared Governance Groups

Title IX Roles*

- Title IX Coordinator
- Intake Specialist/Coordinator
- Dismissal Appeal Decision-maker
- Investigator(s)
- Emergency Removal Challenge Decision-maker
- Supportive Measures Challenge Decision-maker

- Informal Resolution Facilitator
- Hearing Facilitator
- Decision-maker(s)
- Appeals Decision-maker(s)
- Advisors

*regulations & role overlap

Building Blocks/Tools of the Trade

- Policy
  - Procedures
  - Intake/Process Protocol
- Letter/Form Templates
- Case Management Software
- Transcription Services
- ATIXA Membership
- Campus Training Options
- Clery Reporting Protocol

Examples of Process Templates

Outreach Email Template/Intake Checklist

Overview of Informal Options/Supportive Measures

Flowcharts of Process

NOIAs/Process Letters

Investigation Report Template

Hearing Protocol/Script

Advisor Job Description

ATIXA Title IX Toolkit (TIXKit)

Building Blocks/Tools for Communication

- VAWA Brochure

- Required Notifications/Pregnancy Brochure

- Reporting Mandates

- Proactive Communication Tips and Tools

  - Orientations, Presentations, Workshops

  - Resource Cards for Difficult Conversations

- Templates / Crisis Plan
- Calendar of Awareness Days/Months

Building Blocks for Increasing Awareness

- Tabling
- Swag
- Website Updates/University App
- Development of Executive & FAQs
- Annual Memo/Email to the Campus Community
- Publications
  - Brochure regarding Sex-Discrimination and Sex-Based Harassment
  - Pregnancy Brochure
  - Post Card with QR Code
  - Decision Tree/Flow Chart

Building Blocks/Tools for Data

Sources of Prevalence Data:

- Campus / District Data
- National Organizations
  - CDC National of Intimate Partner and Sexual Violence Survey
  - NCES National Center for Education Statistics

Examples of Annual Reports (see handout for links)

What is Campus / School Climate?

- …students' perceptions of their experiences both in and out of the classroom (Woodard & Sims, 2000)

- …explicit dimensions of climate such as "perceptions, attitudes, and expectations", and to distinguish climate from culture by stating, "… culture entails viewing the organization from a holistic perspective, but climate focuses on interpersonal interactions" (Cress, 2002)

- "climate" is multifaceted, includes people's attitudes and behaviors, and is more malleable than culture (Reason, 2013)

Why Climate Assessment?

"Assessing the climate for diversity becomes key for institutions that wish to create comfortable, diverse learning environments" (Hurtado, Carter & Kardia, 1998)

"the purpose of conducting and reporting campus climate research should be to serve as a foundation for institutional change." (Harper & Hurtado, 2007)

"**Barrier analysis** indicates that there is likely to be fear of disbelief, embarrassment, and/or lack of understanding that may keep individuals from disclosing even to health care professionals. This reinforces the importance of proactive screening to aid in help seeking and support for those who experience power- and gender- based violence." (Amar & Gennaro, 2005; Mennicke et al., 2022)

Data as a Tool

- Inform outreach & prevention education
  - Identify audience to target outreach
  - Identify issues that may need attention
  - Utilize data to 'make it real'
- Inform response & training responders
  - Identify potential patterns
  - Explore where is there incidence and what can be learned
- Identify gaps / follow up
  - Response rate
  - Differences identified (outliers)

Questions?

Leah Gutknecht - leah.gutknecht@uni.edu
Elizabeth Trayner - etrayner@seattleu.edu
Amy Zavadil - amyz@dramyzavadil.com

AI RELATIONSHIPS

SYNTHETIC IMAGES

CATFISHING 3.0

ATIXA CONFERENCE

TECHNOLOGY FACILITATED HARMS: EMERGING CHALLENGES TO STUDENT SAFETY ONLINE

HOUSEKEEPING

- ABOUT US
- PRONOUNS
- CONTENT WARNING
- QUESTIONS & INPUT
- GOALS!

In Today's World,
Technology is Required
to Survive and Thrive.

GOAL:
Digital &
Physical
Safety
Treated
Equally

1. Personal Connection.

2. No Hacking Skills Required, Just Opportunity.
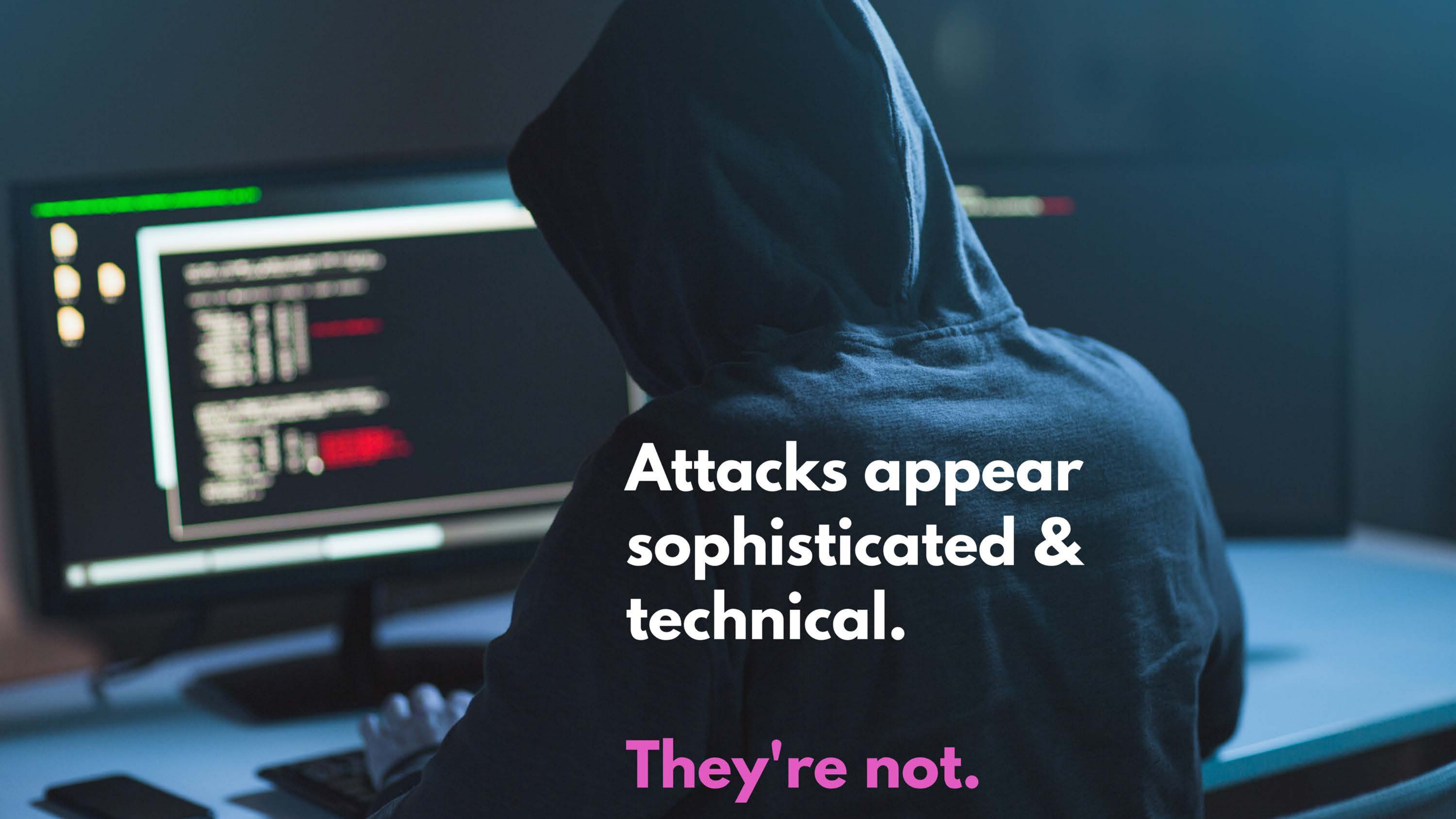
3. No Technical Skills Required in the age of AI.
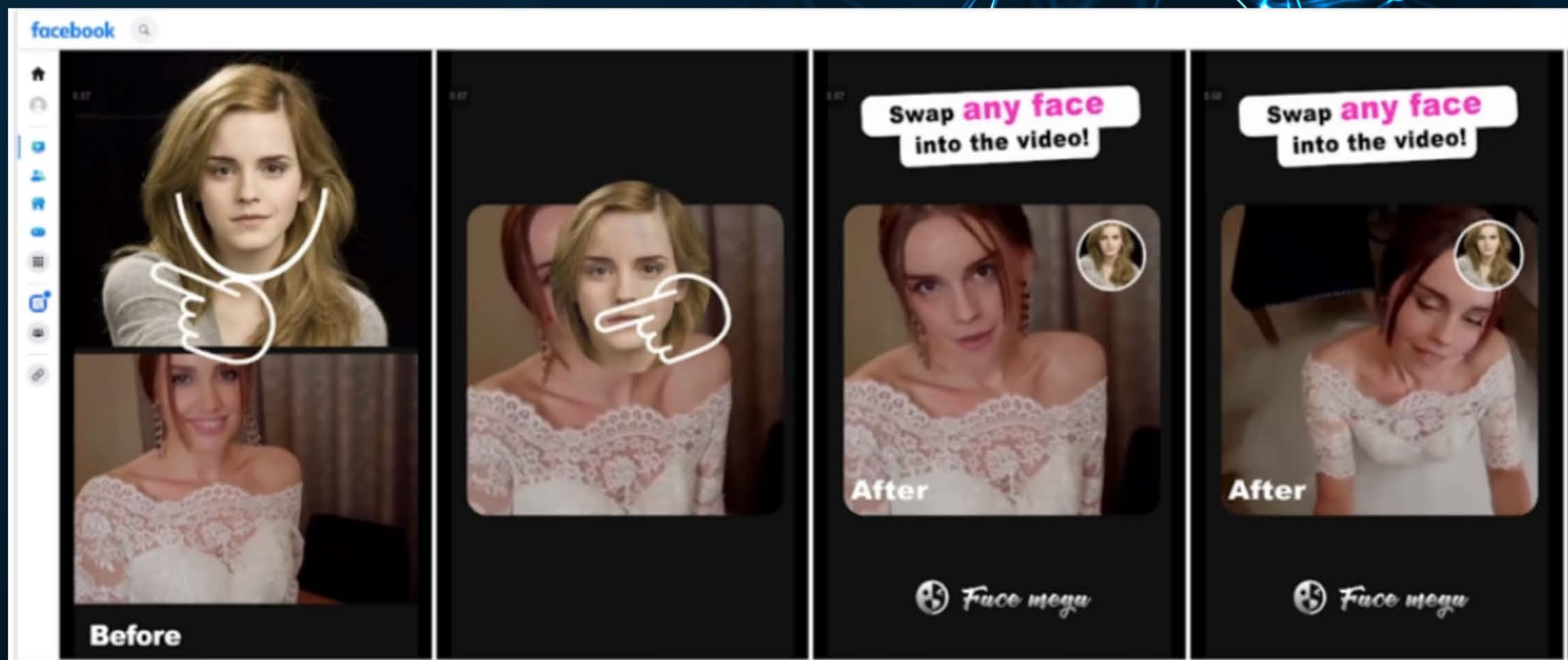
4. Has or had the victim's trust.

(Access to passwords, devices, personal info, etc.)

Attacks appear sophisticated & technical.

They're not.

"We **don't have to be experts** to act when a student is being harmed online or via technology."

TECH-ENABLED ABUSE

ACCESSING ACCOUNTS &DEVICES

WITHOUT CONSENT

STEPS:

1. **Tap Profile Photo in Bottom Right Corner**
2. **Tap 3 Horizontal Lines in Upper Right Corner**
3. **Tap 'Accounts Center'**
4. **Tap 'Password and Security'**
5. **Tap 'Where you're logged in'**

Account Login activity

You're currently logged in on Instagram on these devices

iPhone 13 Pro
Portland, OR, United States • This device

Logins on other devices

Apple Macintosh
Tigard, OR, United States • on June 12 at 8:49 AM

iPhone
Los Angeles, CA, United States • on December 6, 2021 at 9:37 AM

iPhone
Los Angeles, CA, United States • on December 6, 2021 at 9:21 AM

INSTAGRAM

Title IX Implications

NONCONSENSUAL TRACKING

WHEN
LOCATION
TRACKING
GOES
DIGITAL

PERSONAL TRACKERS

Apple finally adds iPhone alerts for third-party Bluetooth trackers

Apple and Google collaborated on the new Detecting Unwanted Location Trackers industry standard. Image: Apple

/ With iOS 17.5, iPhones can now alert you when unauthorized Bluetooth trackers are following you, even if they aren't AirTags.

By **Jennifer Pattison Tuohy**, a smart home reporter who's been testing connected gadgets since 2013. Previously a contributor to Wirecutter, Wired, Dwell, and US News.

May 13, 2024, 12:34 PM PDT

7 | **Comments (7 New)**

ALERTS

- ## Air Tags
  - ### Pop-Up Notice
  - ### Sound Alert
  - ### Disable

- ## Other Trackers
  - ### Pop-Up Notice
  - ### Sound Alert
  - ### Disable
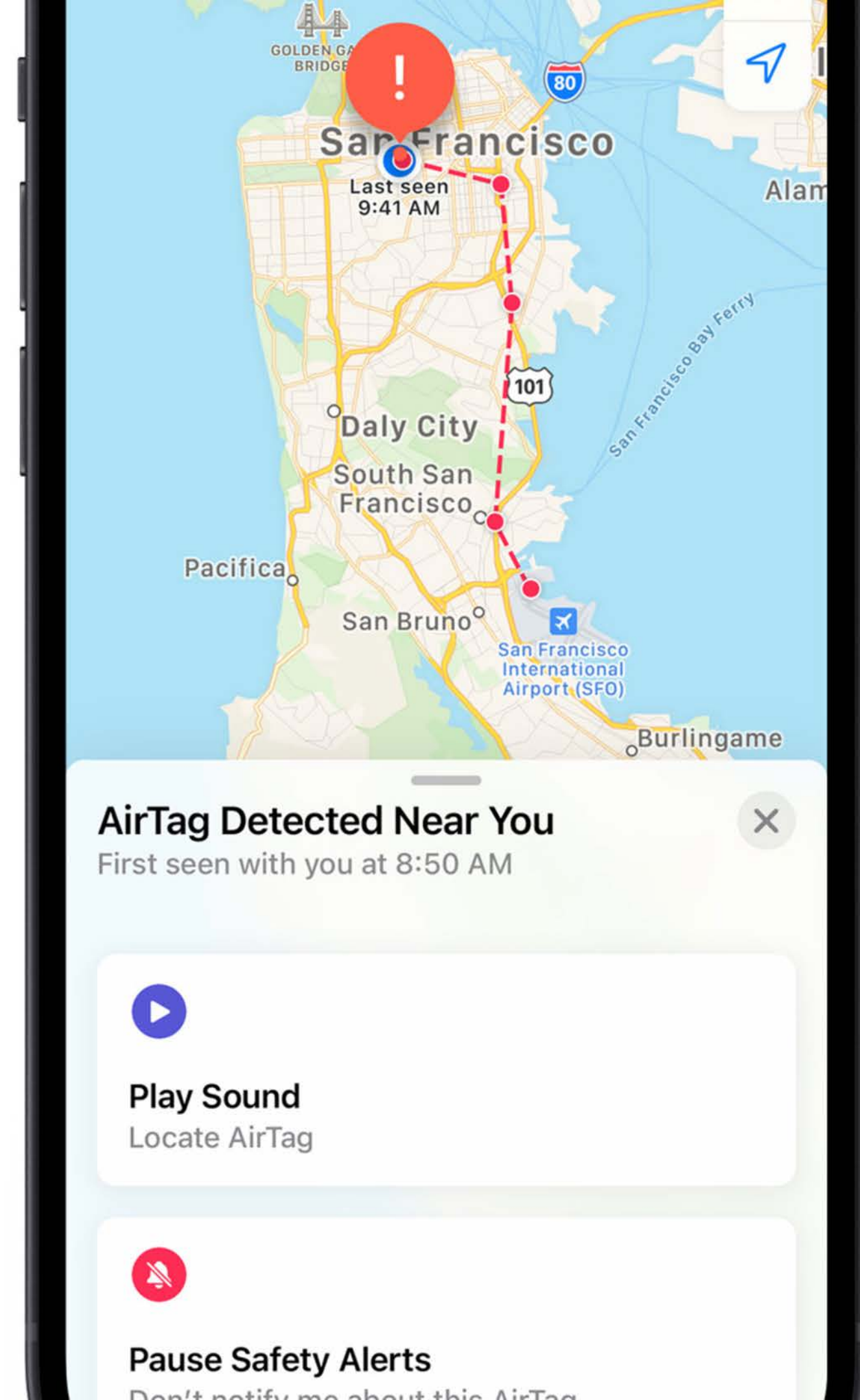
INSIDE THREATS

RIDESHARE APPS

FOOD DELIVERY APPS

MAP/DRIVING APPS

SOCIAL MEDIA

UNAUTHORIZED ACCOUNT ACCESS

iPhone

United States

48 minutes ago

First sign-in: Jun 5, 2019

Sign out   Find device   Don't recognize this device?

RECENT ACTIVITY

• United States   48 minutes ago

Locations are approximate based on IP address. More info • Show IP address

BROWSERS YOU'RE SIGNED IN ON

Safari

ⓘ Model: Apple iPhone X

SCREENSHOT

Log Out

Title IX Implications

IMAGE-
BASED
SEXUAL
ABUSE

NONCONSENSUAL DISTRIBUTION OF INTIMATE IMAGES (NDII)

THE DISTRIBUTION OF SEXUALLY GRAPHIC IMAGES OF INDIVIDUALS WITHOUT THEIR CONSENT.

AI-GENERATED PHOTOS

AKA UNDRESSING APPS

ADDRESSING AI IMAGES

1. BELIEVE VICTIMS
2. VALIDATE THE HARM
3. SEXUAL VIOLENCE, NOT HARMLESS
4. OFFER SUPPORT
5. FOCUS ON HARM REDUCTION

❓ **Watch out for fake StopNCII.org scams asking for your photos.** The real StopNCII.org never asks to share or upload your pictures or videos. Only trust our official website and our approved [Global Network of Partners](#).

What do you do if someone is **threatening to share** your intimate images?

Create Your Case

www.takeitdown.ncmec.org

Take It Down

Get Started   Resources and Support   About Us   Participating Companies   FAQ   English ⌄

Take It Down.
Having nudes online is scary,
but there is hope to get it taken
down.

This service is one step you can take to help remove
online nude, partially nude, or sexually explicit photos
and videos taken before you were 18.

Get Started +

ARTIFICIAL INTELLIGENCE

Google is finally taking action to curb non-consensual deepfakes

Eight months on from deepfakes of Taylor Swift, we are seeing some encouraging changes, but a lot more work needs to be done to combat the problem.

By Melissa Heikkilä   August 6, 2024
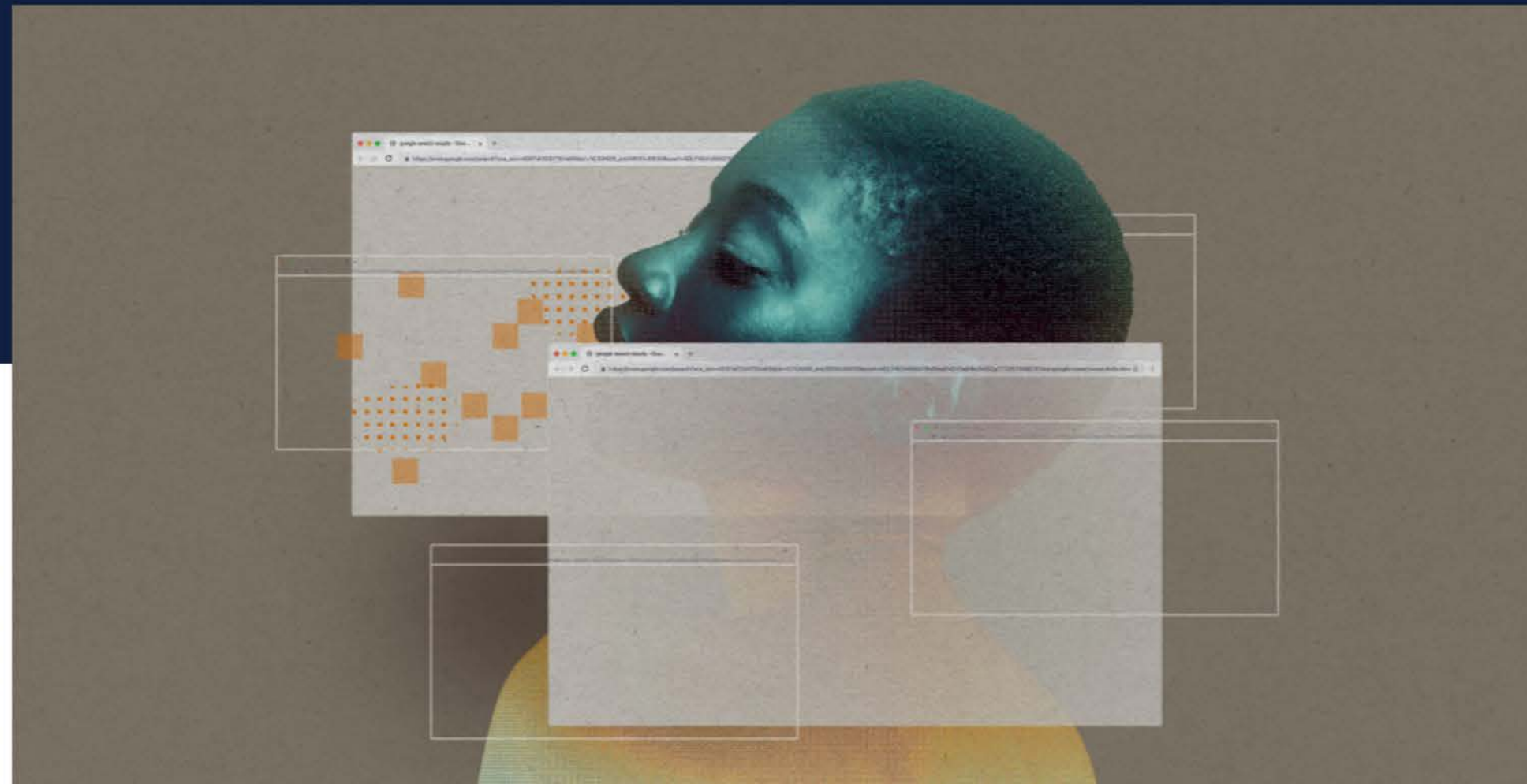
Face Search Engine
Reverse Image Search
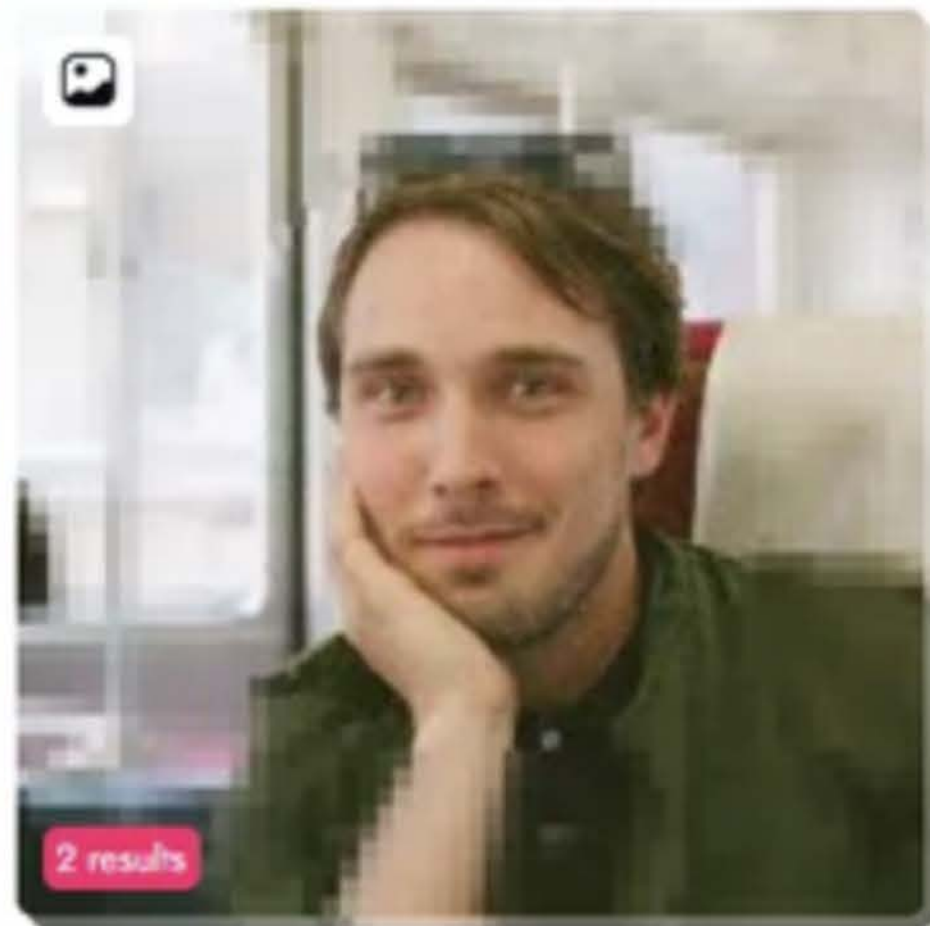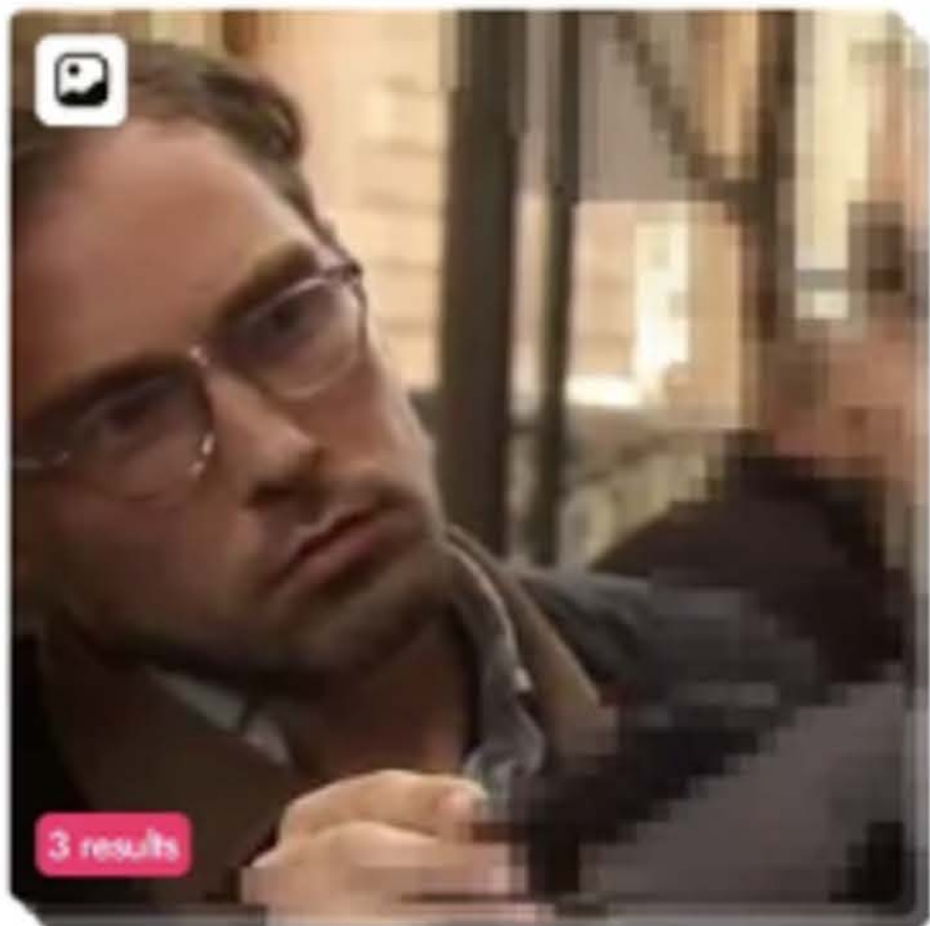
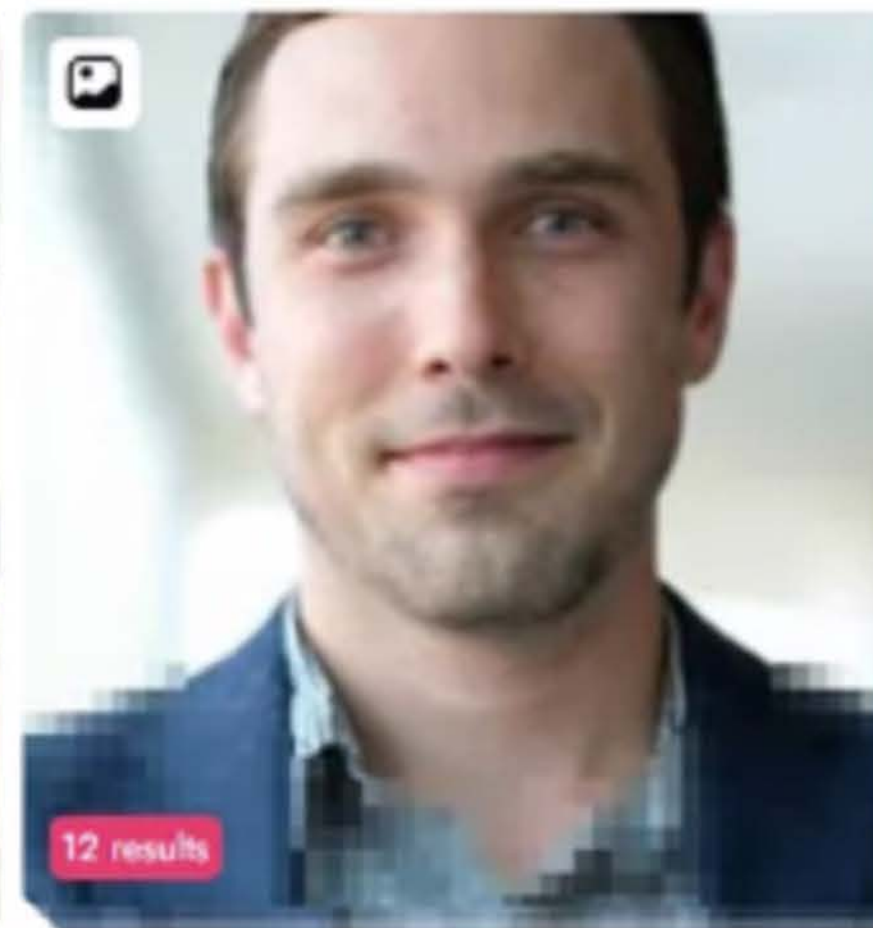## UPLOAD PHOTO AND FIND OUT WHERE IMAGES ARE PUBLISHED

Upload photo(s)

Or you can take a photo with the device's camera. Don't worry, we will not store it!
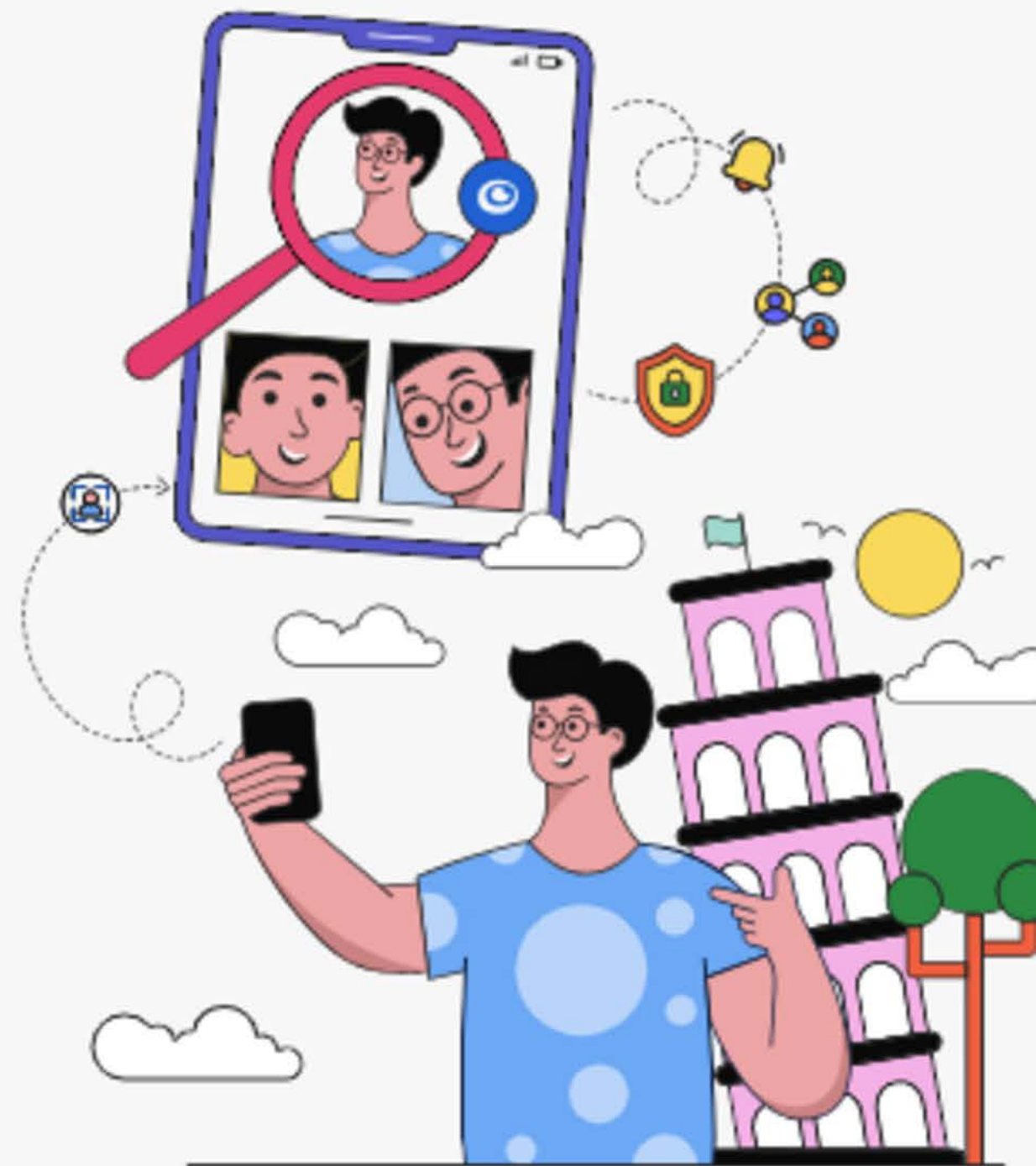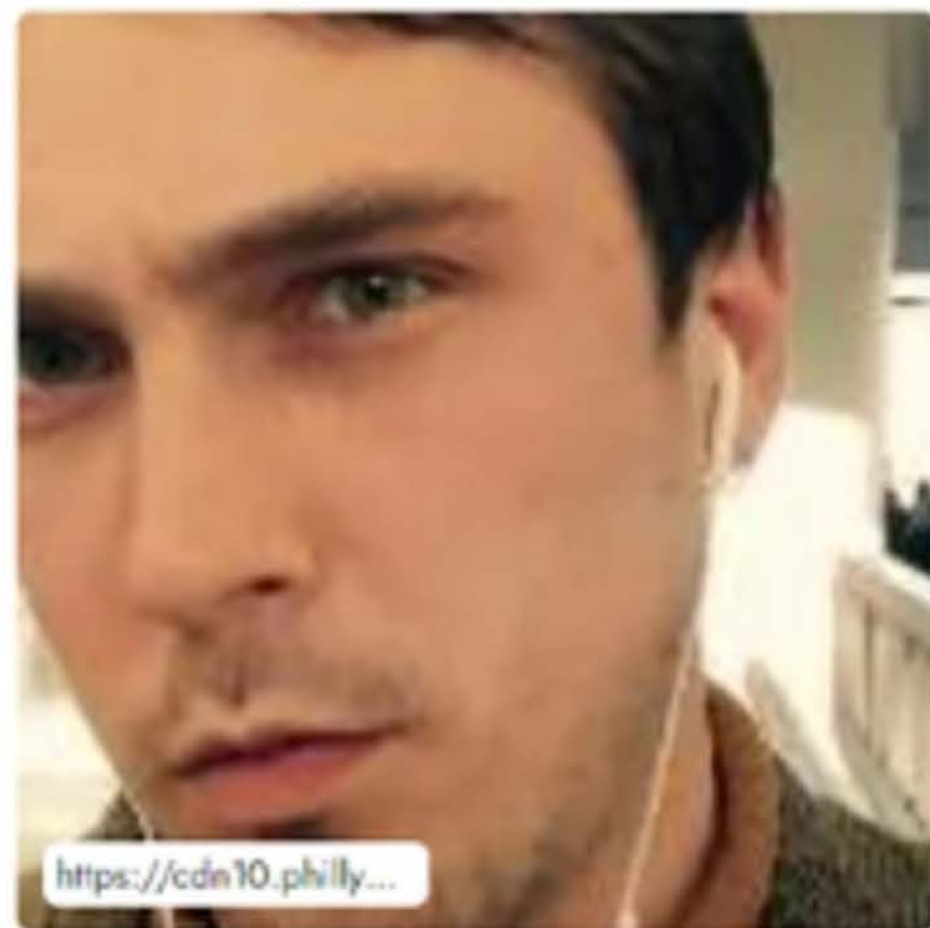
https://images.squa...

https://cdn10.philly...

12 results

3 results

2 results

https://secure.gravat...

NEWS

Someone Put Facial Recognition Tech onto Meta's Smart Glasses to Instantly Dox Strangers

The technology, which marries Meta's smart Ray Ban glasses with the facial recognition service Pimeyes and some other tools, lets someone automatically go from face, to name, to phone number, and home address.

JOSEPH COX · OCT 3, 2024 AT 7:00 AM

TUTORIALS

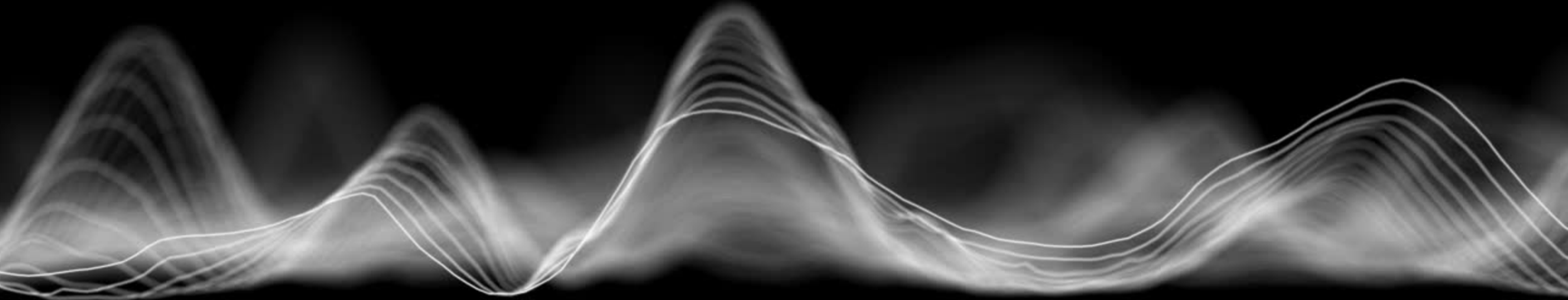# How to remove your images from Pimeyes search results

You do not need to go through the DMCA request process to remove your image from PimEyes search results. If you wish to remove your image from PimEyes search results, you have two choices: opt-out and manual exclusion
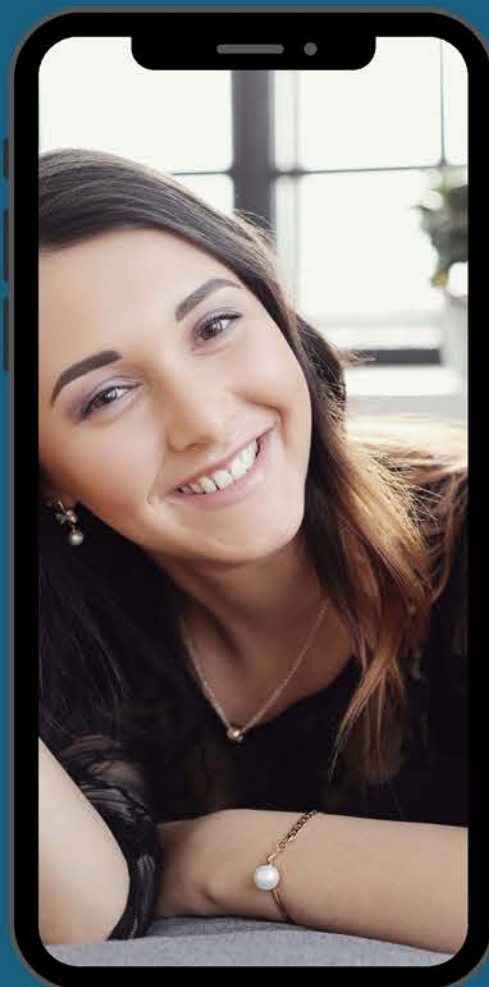
Also available in languages: Español   Português   日本   한국인   हिन्दी
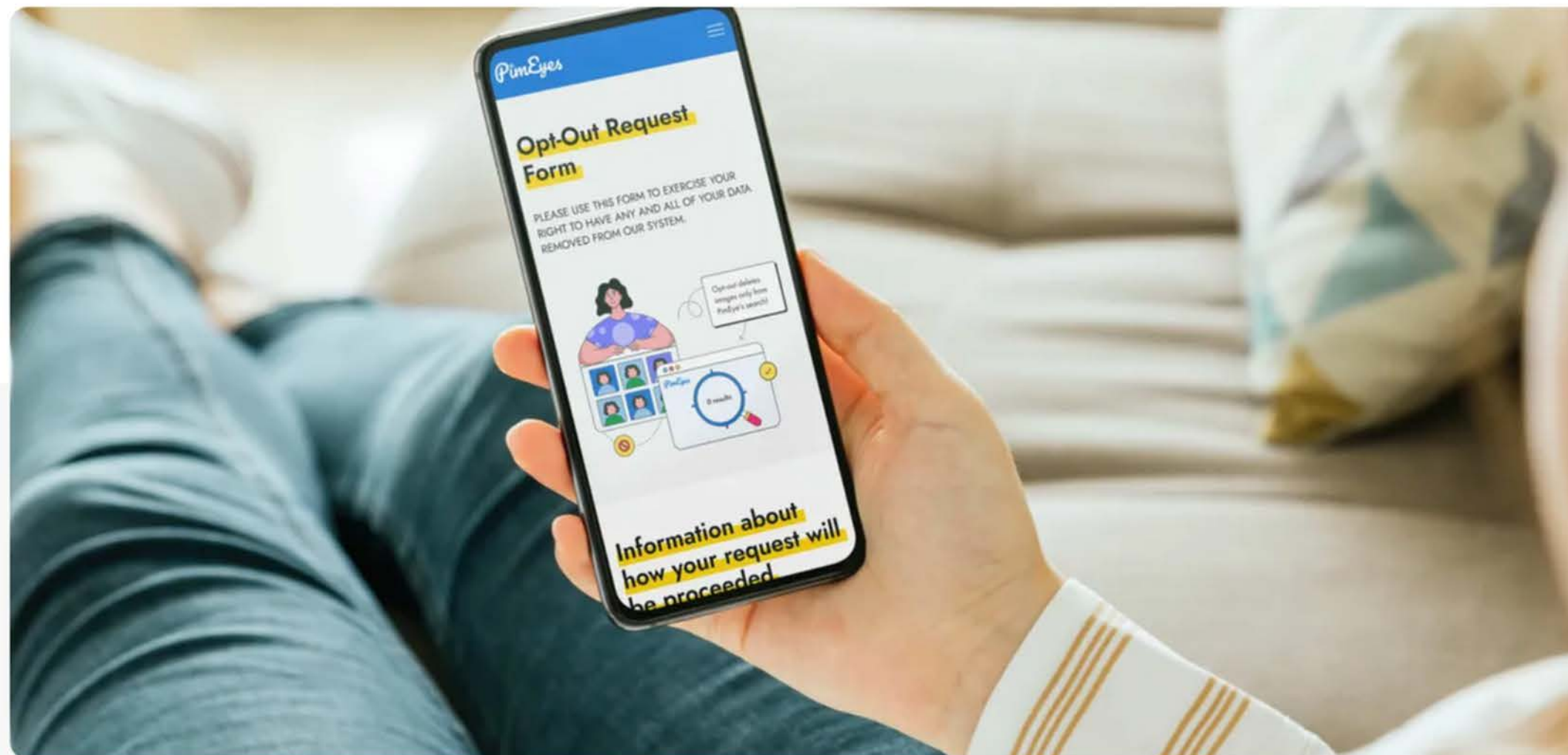
Title IX Implications

SCAMS
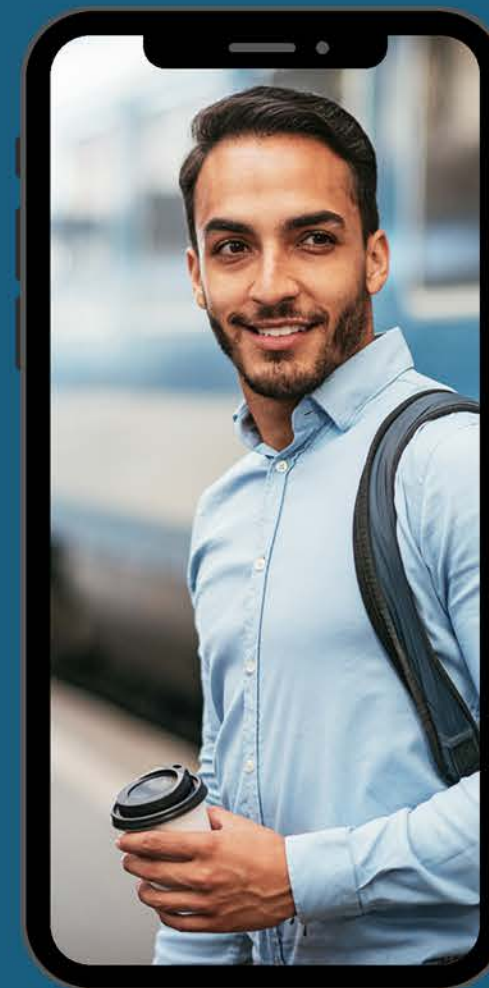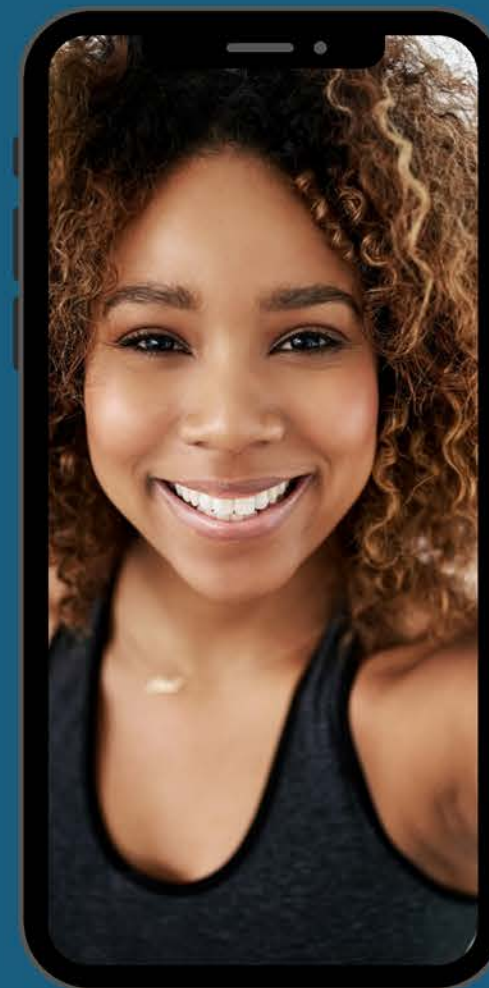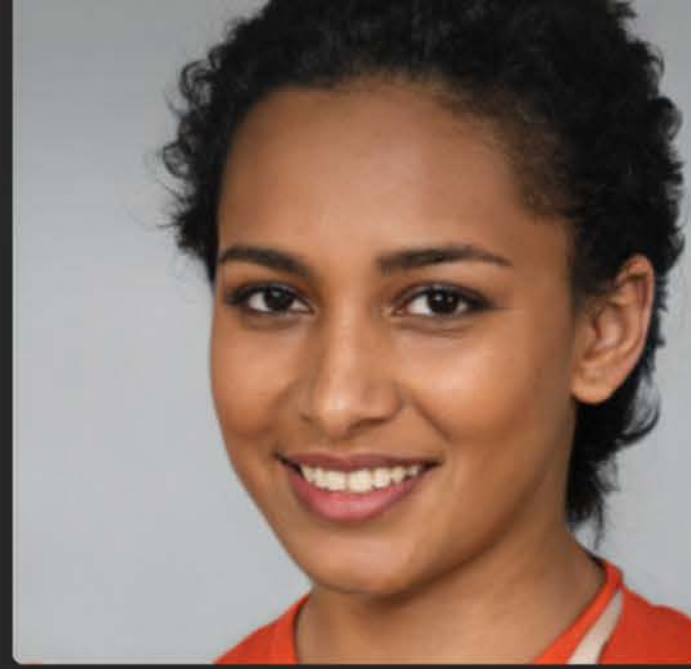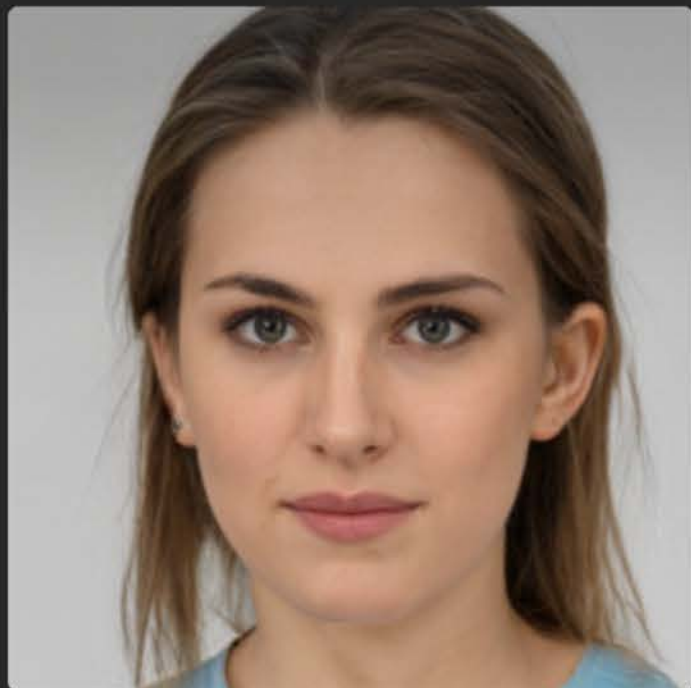
BY MATT BURGESS   SECURITY   APR 18, 2024 7:00 AM

The Real-Time Deepfake Romance Scams Have Arrived

Watch how smooth-talking scammers known as "Yahoo Boys" use widely available face-swapping tech to carry out elaborate romance scams.

Yahoo Boys Face Swap Technique on a Phone
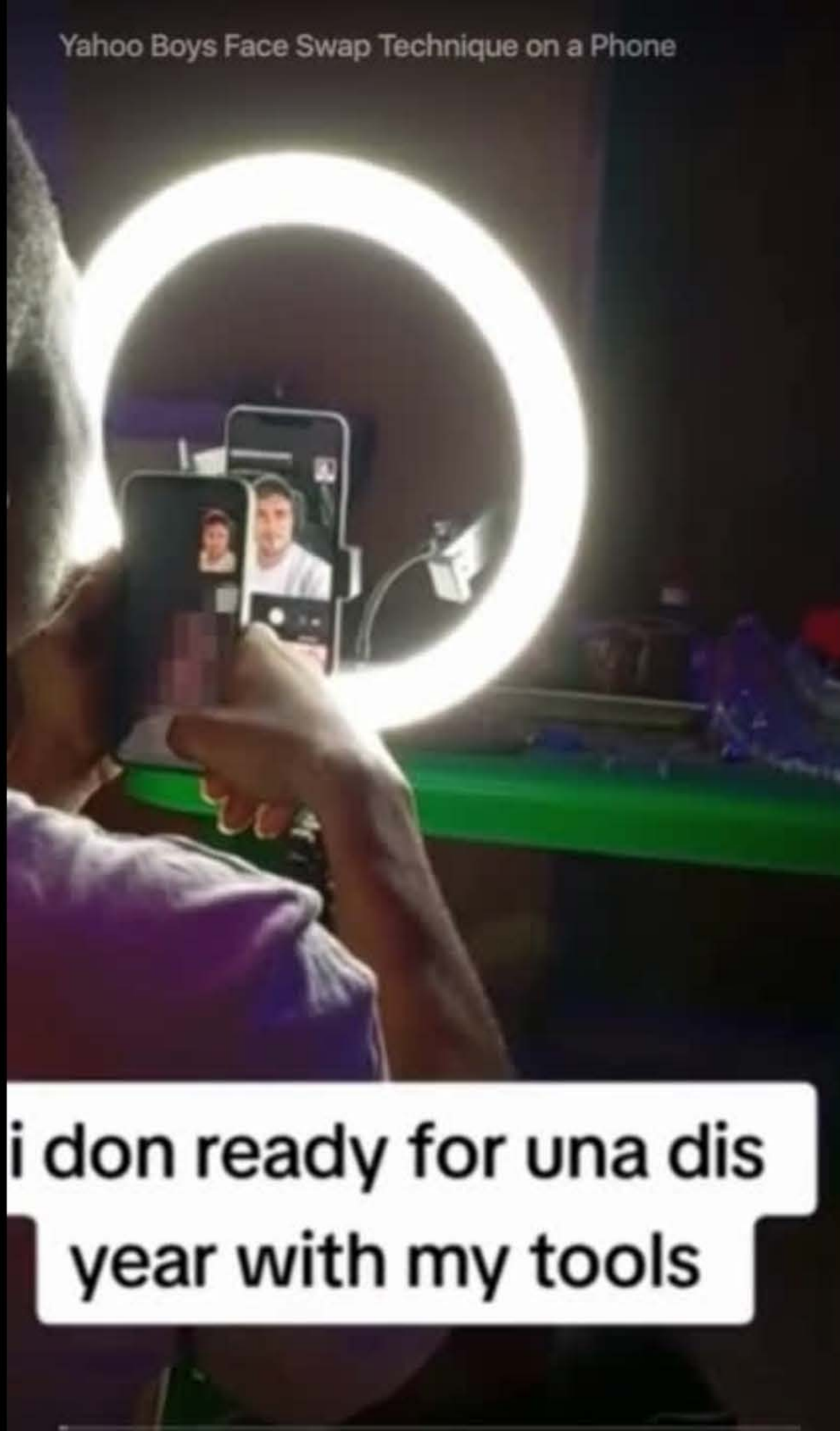
i don ready for una dis
year with my tools

Stand
Up
Please.

Title IX Implications

9:41

(408) 555-7890

Today 9:41 AM

Hey, check out this photo!

⚠

This may be sensitive.

👁 Show

This sender is not in your contact list.

AirDrop
John Appleseed would like to share a sensitive photo

Decline   Continue   ⚠

H:61° L:47°
Weather   Calendar

FaceTime   Calendar   Photos   Camera

Mail   Notes   Reminders   Clock

News   TV   Podcasts   App Store

Maps   Health   Wallet   Settings

Search
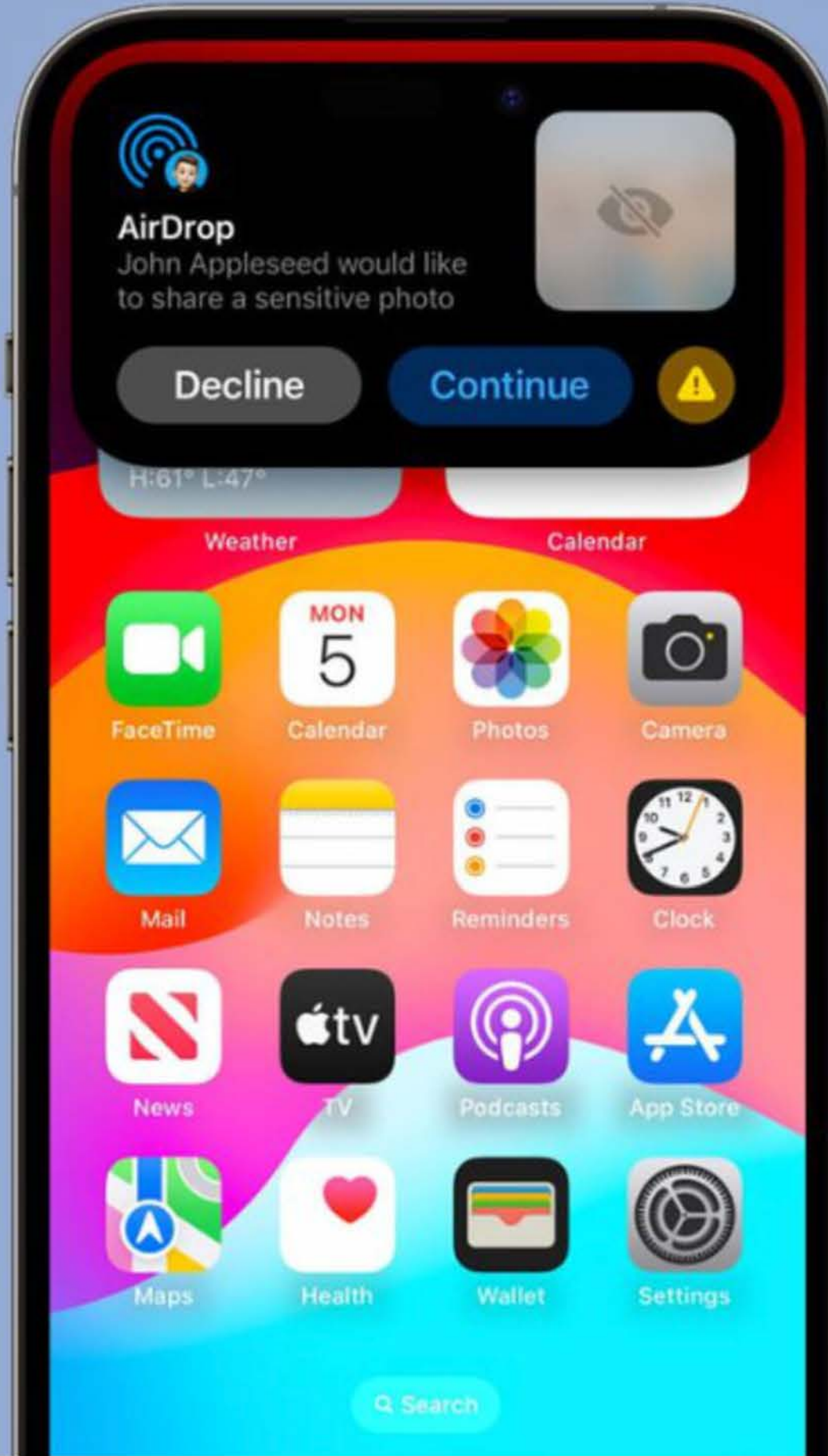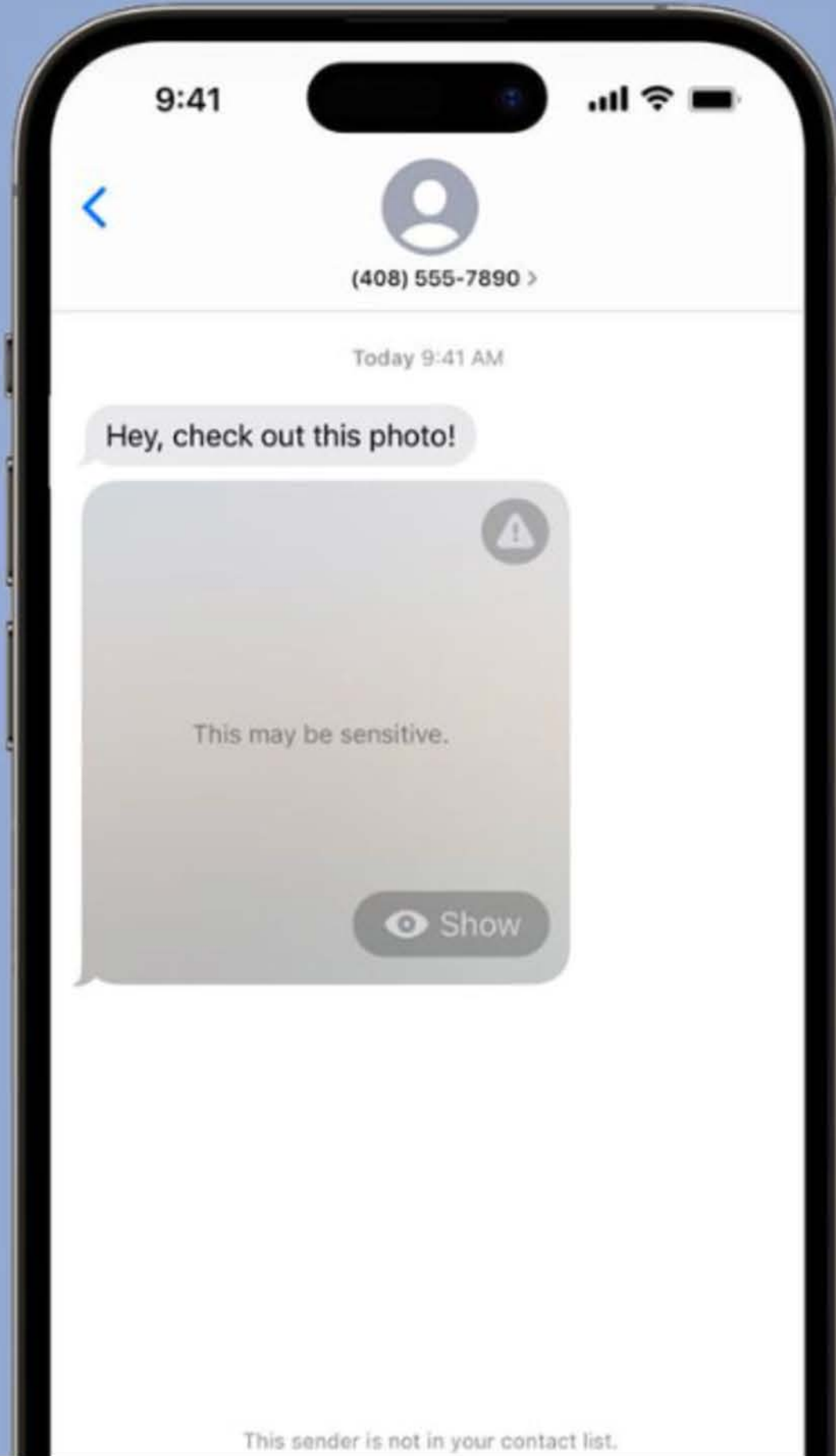
SENSITIVE CONTENT WARNING

ANDROID

ADJUST QUICK SHARE SETTINGS

Title IX Implications

QUESTIONS?

CONTACT
ADAM@ENDTAB.ORG

Goals for This Conversation

- Turnover in Title IX

- The First 90 Days

- What is Title IX Fatigue?

Conversation, Not Presentation

- **PLEASE**
  - Participate in the conversation. This is a SAFE SPACE.
  - Respect others.
  - Take care of yourself.
  - Respond to the questions…if you would like!

Why are the First 90 Days Important?

"The president of the United States gets 100 days to prove themselves, you get 90." (Watkins, pg. 1)

- First Impressions

- Learning the Culture

- Building Relationships

- Establishing Early Wins

- Setting the Tone for Long-Term Success

Title IX Turnover: The Numbers

- Average time in Title IX: 3 years
  - **64%** of Title IX Coordinators have been in their role for three years or less (2018 ATIXA Survey)

- Astronomical burnout rates
  - **62%** of survey respondents with three-plus years of experience reported feeling burned out from their work.
    - (Bell, Fay, Boykin, Nam, 2023)

- "Other duties as assigned"
  - ". . .sometimes Title IX responsibilities are tacked on to other job duties. Coordinators can find themselves scrambling to find the time to be prepared to do their entire job well."
    - (Block, 2015)

Why is the Turnover So High?

- Institutional resistance

- More visible than ever

- Shift in cultural understandings about roles and commitments
  - Pre "Dear Colleague Letter/s"
  - Post "Dear Colleague Letter/s"
  - Navigating injunctions of regulations

- Varied policy interpretations and implementation expectations
  - State institution vs private institution vs community colleges
  - Size of institution
  - Demographic make-up (PWI/HBCU, cultural-specific support available, intra-cultural issues)

Discussion Questions

1. How long have you been in Title IX?

2. How has the composition of your team changed and how often?

3. What kinds of shifts are you seeing for yourself in Title IX?

Assessing Your Situation

To take charge successfully, you must have a clear understanding of the situation you are facing and the implications for what you need to do and you need to do it." Watkins, p. 70

To understand the environment, you are going into or are already in, start with these conversations:

- **Situational diagnosis:** Discuss the situation with your boss, team members, and organization to ensure everyone agrees on the current state of the business.
- **Expectations**: Set clear expectations for success and what each team member or partnership should deliver.
- **Resources:** Determine what resources you need to be successful, such as money, technical support, or subject matter experts.
- **Style:** Learn how each team member and your organization communicate and make decisions.
- **Personal development**: Get feedback on your strengths and areas for improvement.

Understanding the STARS Model

S: Start-Up

T: Turnaround

A: Accelerated growth

R: Realignment

S: Sustaining Success

Watkins, pg. 72

What did we Inherit?

Turnaround

- "The classic burning platform, demanding rapid, decisive action. Most people understand that substantial change is necessary, although they may be in disarray and in significant disagreement about what needs to be done. Turnarounds are ready-fire-aim situations: you need to make the tough calls with less than full knowledge and then adjust as you learn more."
  - o Watkins, pg. 73

Realignments

- "Reenergizing a previously successful organization that now faces problems"
  - o Watkins, pg. 72

Virtuous Cycles

- "[Cycles] that help you create momentum and establish an upward spiral of increasing effectiveness."
  - o Watkins, pg. 7

How I Spent My First 90 Days

Jarvis (5/1/2024)

- Managing outstanding cases
- Rewriting the Nondiscrimination and Anti-Harassment Policy
  - o 2020: maintenance and review
  - o 2024: preparation and implementation
- Developed Strategic Plan
- Scheduled initial trainings and presentations
- Hired a Deputy
- Established community partnerships
- Title IX Conference

Elizabeth (8/12/2024)

- Reviewed all training materials, workflows and coordination documents
- Listening tour with campus and community partners
- Conducted investigations as needed
- Revamped and streamlined Athletics Disciplinary Attestation process
- Created a comprehensive education strategy and implemented Gender Equity and Preventive Education Initiatives
- Set boundaries of how to interact with the office and its professionals

Discussion Questions

1. What did you inherit when you started in your current position?

2. Where are you now?

3. What effective strategies did you employ during your first 90 days?

Implementation

"The president of the United States gets 100 days to prove themselves, you get 90." (Watkins, pg. 1)

- Establishing Early Wins

- Building Relationships

- Setting the Tone for Long-Term Success

- Learning the Culture

UPDATED + EXPANDED

INTERNATIONAL BESTSELLER

THE FIRST 90 DAYS

Proven Strategies *for* Getting Up *to* Speed Faster *and* Smarter

MICHAEL D. WATKINS

HARVARD BUSINESS REVIEW PRESS

Establishing Early Wins

- "Early wins excite and energize people and build your personal credibility. Done well, they help you create value for your new organization earlier and reach the break-even point much more quickly."
  - (Watkins, pg. 116-117)

- Early Wins that We Have Sought
  - Tone setting
  - Community building
  - Establishing strategic partnerships
  - Policy updates
  - Case management practices

Building Relationships

- "No matter where you land, the keys to effective delegation remain much the same: you build a team of competent people whom you trust, you establish goals and metrics to monitor their progress, you translate higher-level goals into specific responsibilities for your direct reports, and you reinforce them through process."
  - Watkins, pg. 22

- Internal Teams
  - Understanding strengths
  - Incorporate common procedures
- External Partnerships
  - Who shares your mission?
  - What does the community bring to the table?
- Strategic Planning

Strategies to Move Toward Effective Partnerships

- Setting ground rules for how decisions will be made, how problems will be addressed, and how grievances will be handled.

- Starting small and building gradually.

- Identifying some "quick wins" that will allow the partnership to get off to a strong start

Setting the Tone for Long-Term Success

- "You should identify opportunities to get quick, tangible performance improvement in the business. The best candidates are problems you can tackle quickly with modest expenditures and will yield visible operational and financial gains."
  - (Watkins, pg. 128)

- Massive training overhaul
  - Catharsis
  - Training Strategic Plan
  - Project R.E.S.T
  - It's On Us Collaboration
  - Educational Grant
  - Personalized In-Person Trainings

Discussion Questions

1. What do early/easy wins look like in the Title IX space?

2. What strategies have you used to create and/or strengthen your partnerships?

3. How does your population react to Title IX training? How did you build those relationships?

Title IX Fatigue

- **Consistent Burning Platforms**

- **Comparative Thinking**

- **High Public Scrutiny**

- **Wearing Too Many Hats**

Responding to Title IX Fatigue...Learning the Culture

- **Community of Support**
  - "To succeed in your new role, you will need the support of people over whom you have no direct authority. You may have little or no relationship capital at the outset, especially if you're onboarding into a new organization. So you will need to invest energy in building new networks. Start early. Discipline yourself to invest in building up 'relationship bank accounts.'"
    - (Watkins, pg. 201)

- **Strong Boundaries**
  - "Why am I so busy? I realized it wasn't just other people getting on my calendar. I was creating that. To get back to that internal locus of control, we have to set boundaries."
    - (Barbara LoMonaco, Chronicle of Higher Education, 2024)

Responding to Title IX Fatigue...Learning the Culture

- **Collaborative Planning**
  - ". . .to make effective decisions, you also need 'soft' information about the organization's strategy, technical capabilities, culture, and politics. The only way to gain this intelligence is to talk to people who have critical knowledge about your situation."
    - Watkins, pg. 55

- **Staying in our lane**
  - "Your actions should, to the greatest extent possible, serve your agreed-to business goals and supporting objectives. . ."
    - Watkins, pg. 130

- **Creating energizing outlets**

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When OCR Comes Knocking:

Responding to OCR Complaints

ATIXA Conference October 29, 2024

Who We Are

Amy
Fabiano

Jacob
Tabor

Abra
Francois

Disclaimer: We worked at OCR but we are not speaking on behalf of OCR.

Likewise, we are not speaking for Brandeis University, Hampshire College, Tufts University, or Bowditch.

Nothing in this presentation should be construed as legal advice.

Objectives and Roadmap

+ Understand what OCR is and how it works

+ Brief overview of OCR's relationship with TIX

+ Learn tips and tricks throughout the stages of an OCR investigation, with focus on TIX
    - Avoiding compliance reviews and directed investigations
    - Responding to notice of a complaint
    - Considering alternative resolutions
    - Navigating investigations
    - Negotiating resolutions
    - Completing monitoring

The Office for Civil Rights

+ First created in the 1960s located in the U.S. Department of Health, Education, and Welfare

+ In 1979, moved to the Department of Education

+ Mission: to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights;

+ Role:

  ▪ Promulgate regulations

  ▪ Enforce laws

  ▪ Provide technical assistance

  ▪ Collect and maintain CRDC data

The Office for Civil Rights

Seattle — WA

ME

VT NH — Boston

NY MA

New York RI

Philadelphia PA CT

NJ

DE

Washington, DC (Metro)

San Francisco

Denver CO

Kansas City

Chicago

Cleveland

Atlanta

Dallas

	OCR REGIONAL OFFICE	STATE, DISTRICT, OR TERRITORY
HQ	Washington, DC (Metro)	DC, VA, NC, SC
	Atlanta, GA	GA, TN, AL, FL
	Boston, MA	MA, ME, VT, NH, RI, CT
	Chicago, IL	IL, IN, IA, WI, MN, ND
	Cleveland, OH	OH, MI
	Dallas, TX	TX, LA, MS
	Denver, CO	CO, WY, UT, AZ, NM
	Kansas City, MO	MO, SD, NE, KS, OK, AR
	New York, NY	NY, NJ, Puerto Rico, U.S. Virgin Islands
	Philadelphia, PA	PA, DE, MD, WV, KY
	San Francisco, CA	CA
	Seattle, WA	WA, OR, ID, MT, NV, AK, HI, American Samoa, Guam, Northern Mariana Islands

The Office for Civil Rights

+ Laws enforced and Jurisdiction:

   - Title VI – race, color, national origin (including shared ancestry)

   - Title IX – sex

   - Section 504 & Title II of the ADA – disability

   - Age Discrimination Act – age

   - Boy Scouts of America Equal Access Act

Title IX Laws and Guidance

+ Title IX of the Education Amendments of 1972

+ Case Law

  - *Alexander v. Yale* (2d Cir. 1980)

  - *Franklin v. Gwinnett County Public Schools* (U.S. 1992)

+ 1997 and 2001 OCR Sexual Harassment Guidance

+ 2011-2016 Era of OCR Dear Colleague Letters

+ Trump 2020 Regulations

+ Biden 2024 Regulations & Injunctions

General Practice Tips for OCR

+ Your Regional Office vs. OCR Headquarters

+ Importance of understanding how OCR processes cases under the Case Processing Manual (CPM)

+ Avoiding OCR complaints, compliance reviews, and directed investigations

- Complaint

- Compliance Review – discretionary

- Directed Investigation

- Monitoring – after a 302 or 303(b) finding

OCR Complaints

+ Who can file an OCR complaint?

+ When does OCR have jurisdiction?

  ▪ Subject matter jurisdiction

  ▪ Personal jurisdiction

+ **Practice Tip:** Is there anything a school can do at the complaint evaluation stage?

Notification of OCR Investigation

+ Receiving the letter

+ Notifying your legal counsel, insurance, stakeholders

+ Connecting with your OCR Investigator before responding

+ **Practice Tip:** Filing a FOIA request as soon as possible

Alternative Resolution Practices

+ Options:
    - Complainant requested mediation
    - OCR-initiated Mediation
    - Rapid Resolution Process (RRP)

+ **Practice Tip:** When to consider or avoid alternative resolution

Investigations

+ Preparing your data response

+ Scheduling interviews and/or an on-site visit for OCR investigators

+ Preparing employees for interviews

+ **Practice Tips:**

  ▪ Understanding when FERPA applies to OCR investigations

  ▪ Debriefing with OCR investigators

Section 302 Resolutions

+ Section 302 Resolutions – Resolution Agreement Reached During an Investigation

+ When to consider a 302 resolution

+ How to negotiate a 302 resolution agreement

+ Preparing for OCR to issue the resolution letter and agreement

+ **Practice Tip:** Engaging with OCR on the resolution letter and agreement ***during*** the 302 resolution process

Section 303(a) Determinations

+ Section 303(a) Determinations – Insufficient Evidence Determinations

+ **Practice Tip:** How to know if you're headed for a 303(a) Resolution?

Section 303(b) Determinations

+ Section 303(b) Determinations – Non-Compliance Determinations or Mixed Determinations

+ How to negotiate your 303(b) resolution agreement

+ Preparing for OCR to issue a resolution letter and agreement detailing finding against your school

+ **Practice Tips:**

  ▪ Engaging with OCR on the resolution letter and agreement *during* the 303(b) process

  ▪ Preparing stakeholders

  ▪ Preparing your campus

Monitoring

+ Preparing for monitoring

+ Following up with OCR during monitoring

+ When to engage legal counsel during monitoring

+ **Practice Tip:**

    ▪ What does monitoring look like in reality?

Unique Issues

+ Mootness (Section 110(n))

+ Enforcement Actions (Article VI)

+ Title IX Employment Complaints (Section 701(c))

+ Public notice of complaints against your school on the OCR website

Interactive Q&A

Share your experiences
during the OCR process