



Association of
Title IX Administrators

Civil Rights in Education: Violence Risk Assessment, Interpersonal Violence, and Stalking

Training and Certification Course

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Strategic Risk
Management Solutions



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



This training focuses on the intersection of civil rights laws and school safety, including responding to threats, interpersonal violence, and stalking in education settings.



Participants will learn how to leverage cross-functional expertise to address the inextricable elements of protected characteristic-based harmful behavior and school safety.



Our goal is to aid practitioners in developing coordinated responses across multiple areas to enhance school safety and reduce duplication of services and confusion for students and employees.

Content Advisory

The content and discussion in this training will engage with protected characteristic-based harassment, discrimination, violence, and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that educators may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

Why These Topics Together?

- Research shows that individuals who have engaged in violence toward self or others have overwhelmingly been subjected to interpersonal violence or harassment
- Interpersonal violence and harassment often occur outside the school/institution's jurisdiction for a disciplinary response while having significant in-program effects
 - Schools/Institutions need other means to respond and remedy
- Cross-departmental response is often necessary to effectively reduce risk and address harmful behavior
- There may be competing priorities and processes when behavior could be both criminal conduct and a policy violation
- Title IX Regulations require an individualized safety and risk analysis prior to emergency removal; stalking and interpersonal violence often involve serious incidents where this requirement may apply

Interpersonal Violence Overview

Interpersonal Violence

- Involves the intentional use of physical force or power against other persons by an individual or group
 - Physical
 - Sexual
 - Psychological/Emotional
 - Deprivation and neglect
- Acts of interpersonal violence can be divided into **family** or **partner** violence and **community** violence



Violence Against Women Act, Section 304

- Applies to **higher education**; includes obligations for students and employees
- Requires educational programming, training, and response for the “Big 4”
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- Procedures to address both sex-based and non-sex-based stalking and DV allegations
- VAWA rights are not limited to student or employee Complainants

Dating Violence

Dating Violence: Violence committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the Complainant

- The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
 - Dating Violence does not include acts covered under the definition of Domestic Violence

Domestic Violence

Domestic Violence: Violence committed by:

- a current or former spouse or intimate partner of the Complainant,
- a person with whom the Complainant shares a child in common, or
- a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of <<state>>, or
- by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of <<state>>

Violence Defined

- For purposes of determining whether dating or domestic violence occurred, Recipients should define **violence** in their policies
 - ATIXA recommends the following definition:
Violence: Intentionally or recklessly causing the Complainant physical, emotional, or psychological harm
 - Reasonable use of violence for self-defense is not a policy violation because the purpose is safety, not harm
 - Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances
- Determine whether other prohibited conduct policy definitions also include the word **violence** and define as appropriate

Stalking

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; **or**
- Suffer substantial emotional distress
- **“Reasonable Person”** and **“Substantial Emotional Distress”** are not defined in the Title IX regulations, but are defined by VAWA
- **Course of conduct** requires that there be more than one incident, and the conduct must be directed at a specific person
 - Can occur in person or using technology
- Should consider the duration, frequency, and intensity of the conduct

VAWA Definitions

- **Reasonable Person**

- A reasonable person under **similar circumstances** and with **similar identities** to the Complainant

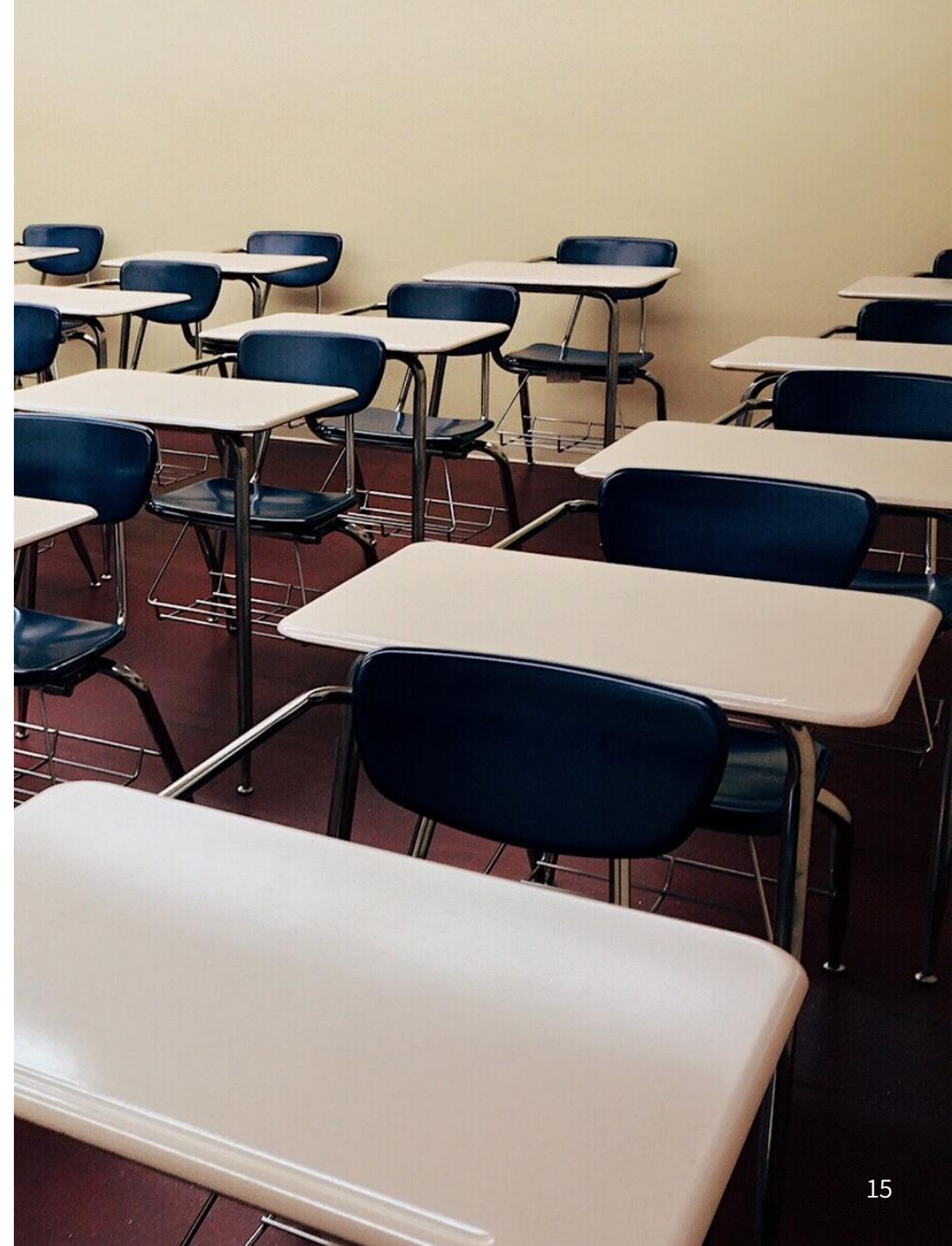
- **Substantial Emotional Distress**

- Significant mental suffering or anguish
 - Subjective
 - Complainant does not need to seek medical or other professional treatment or counseling
 - Must only have experienced the suffering or anguish

Stalking: Course of Conduct

VAWA Definition

- Two or more acts, including, but not limited to, acts in which the Respondent:
 - Directly, indirectly, or through third parties
 - By any action, method, device, or means
 - Follows, monitors, observes, surveils, threatens, or communicates to or about a person
 - Or interferes with a person's property



Non-Sex-Based Stalking

- Non-Sex-Based Stalking
 - May still violate school/institutional policy
 - Driven by fixation
 - Motives for stalking may vary significantly; may be numerous or mixed
- VAWA requires higher education institutions to **prohibit all stalking**
 - Non-sex-based stalking falls under other school/institutional policies
 - Sex-based stalking that does not meet Title IX jurisdiction requirements may also be addressed under other policies
- VAWA outlines procedures to address all forms of stalking

Title IX Stalking Definition Considerations

- Title IX stalking definition is broad and vague
 - Speech must be analyzed by policy definition
 - Title IX regulations caution to interpret consistent with the First Amendment
 - One person's protected free speech could cause anguish/suffering for another
 - Remember true threats are not protected under First Amendment
- Does **not** require a menacing or harmful intent
- Does **not** include reference to escalating course of conduct

Continuum of Stalking Behaviors

OBSERVATION

Action or process of watching something or someone carefully

LINGERING

Remaining present for a long time or slow to end an encounter

LURKING

Intentional encroaching, following, or bothering behavior

TRACKING

Research residence, vehicle, travel, patterns, associates, activities

STALKING

Engaging in a course of conduct that causes fear for safety or substantial emotional distress

Bullying

- **Bullying** is unwanted, aggressive behavior that involves a real or perceived power imbalance. The behavior is often repeated or has the potential to be repeated over a period of time
 - Verbal bullying
 - Social bullying
 - Physical bullying

Source: www.stopbullying.gov

Hazing

- **Stop Campus Hazing Act Definition:**

- Any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that
- Is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and
- Causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including—

Hazing (2)

- Whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity;
- Causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
- Causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
- Causing, coercing, or otherwise inducing another person to perform sexual acts;

Hazing (3)

- Any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
 - Any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and
 - Any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law
- Forty-four states and the District of Columbia also have laws prohibiting hazing

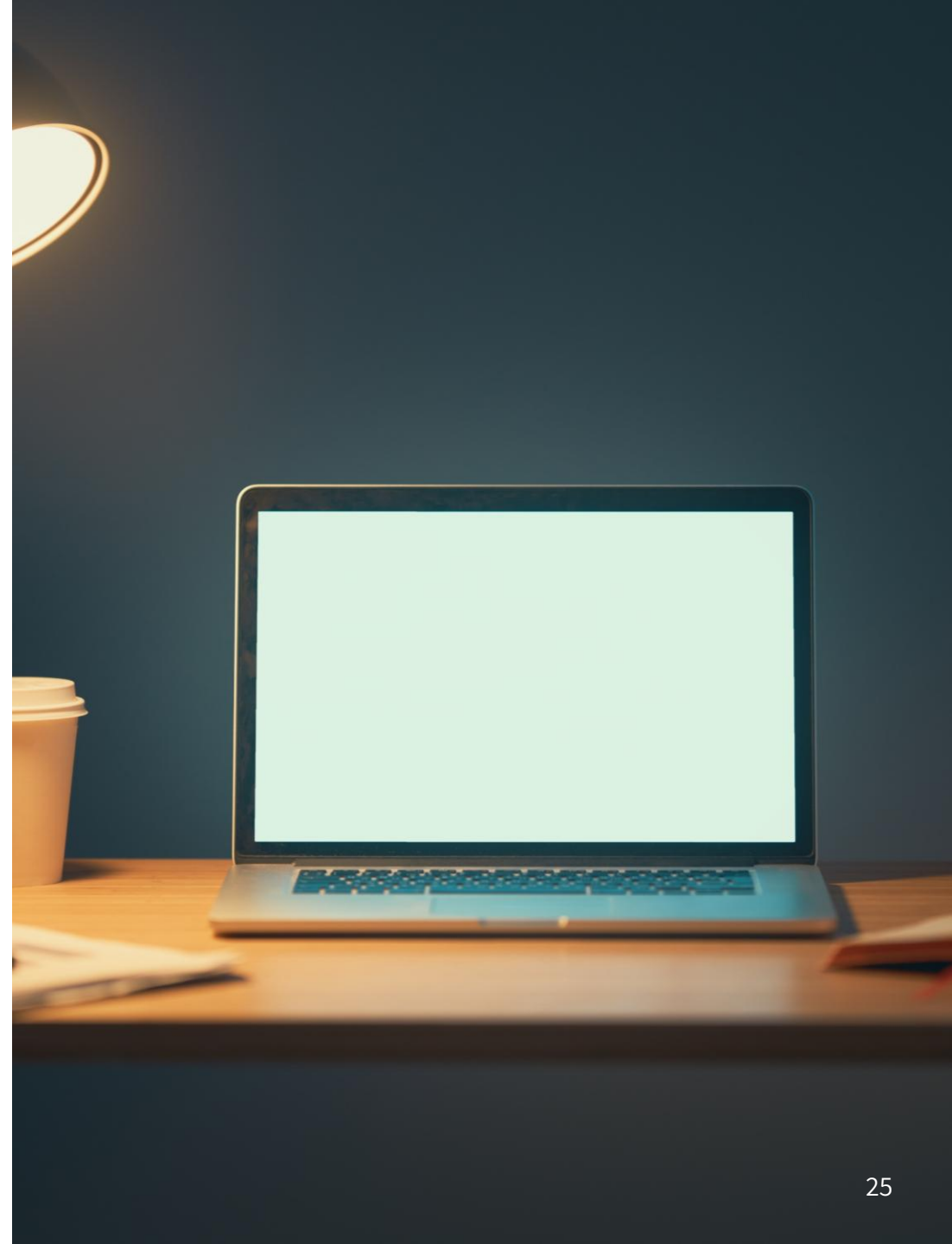
Hazing Examples Involving Protected Characteristics

- **Religion/Creed:** Forcing individuals to eat food prohibited by their faith; prohibiting attendance at religious services
- **Race/Color:** Using racial epithets, slurs, or derogatory remarks, or mocking accents during line ups; forcing individuals to cut their hair
- **Sex:** Subjecting members to forced sexual simulations, demanding public nudity, or requiring participation in sexual acts (e.g., take a picture of yourself in an Eiffel Tower); Requiring disclosure of intimate details
- **Disability:** Forcing individuals to perform tasks they are not physically capable of doing; demanding memorization and recitation for individuals with cognitive disabilities

Cyber Offenses

Cyber Offense Prevalence

- Nearly half of U.S. teens ages 13 to 17 (46%) report experiencing at least one of six cyberbullying behaviors asked about in a 2022 Pew Research Center survey
- In a 2023 report from the Anti-Defamation League Center for Technology and Society:
 - 52% of American adults reported experiencing online hate or harassment at some point in their lives
 - 37% of American adults experienced severe harassment, which includes physical threats, sustained harassment, stalking, sexual harassment, doxxing, and swatting



Cyber Offense Jurisdiction

- “[T]he regulation of many types of off-premises student speech raises serious First Amendment concerns, and school officials should proceed cautiously before venturing into this territory” (Mahanoy Area School District v. B.L., 2021)
- Expression that leads to harassment or a significant disruption to the school’s climate, even if it occurs off campus, can be regulated and may result in disciplinary action
 - This includes social media postings
 - “[G]iven the ease with which electronic communications may be copied or shown to other persons, it was plainly foreseeable that [the] posts would ultimately hit their targets, with resulting significant impacts to those individual students and to the school as a whole”
(Chen v. Albany Unified School District, 9th Cir. 2022)
 - The five exceptions to protected expression apply

Distinguishing Cyber Offenses

Characteristic	Cyberstalking	Cyberbullying	Cyber Harassment
Primary Behavior	Persistent tracking or surveillance	Peer-based aggression or embarrassment	Repeated threats or intimidation
Intention	Cause fear for safety; invade privacy	Embarrass, exclude, isolate	Intimidate, threaten, denigrate, humiliate
Typical Relationship	Often known to the Complainant, but may be a stranger	Usually between known peers (e.g., classmates, coworkers)	May be anyone; often anonymous
Common Indicators	Location tracking, compromised accounts, login attempts	Spreading rumors, mocking, social exclusion	Doxxing, threats about family/friends

Common Cyberstalking Tools and Tactics

- Artificial Intelligence (AI)-generated images and messaging
- Email
- Geo-positioning data or GPS via phones or cars
- Messaging apps
- Ransomware, viruses, spyware, and keystroke loggers
- Releasing personal data
- Sextortion
- Smart Home devices
- Surveillance via mobile devices
- Social media sites
- Social networking platforms
- Text messages

Unique Challenges of Cyberstalking

- Perpetrator anonymity
- Conduct outside of school/institutional control or jurisdiction, including mixed jurisdictional situations
- Long-term nature of stalking and ability of Complainant to access support services throughout
- Complainant retention
- Safety in online environments
- Intimate partner access to information



Unique Challenges of Cyber Harassment

- Perpetrator anonymity/impersonation
- Conduct outside of school/institutional control or jurisdiction, including mixed jurisdictional situations
- Rapid spread and amplification
- Permanence of the internet and other digital spaces
- Long-term nature of impact and ability of Complainant to access support services throughout



Harassment and Discrimination Policies

Policy Authority Structures

- Schools/Institutions vary greatly in terms of which department is responsible for enforcing civil rights-based policies and other behavioral policies
- Examples include:

HR/ Student Conduct

- Separate policies and procedures for students compared to employees
- Which office takes point often depends on Respondent's affiliation

Civil Rights Office

- One policy and one procedure for discrimination based on any protected characteristics
- Managed by one office

Separate Title IX

- Title IX policy and procedure
- Other protected characteristic discrimination governed by separate policy and procedure
- May be managed by multiple offices

Title IX + Conduct Code

- Title IX policy and procedure
- Student Conduct Code
- Employee Conduct Code
- Other protected characteristics incorporated

Policy Overlap

- Common related and overlapping policies
 - Harassment
 - Bullying
 - Harm/Endangerment
 - Discrimination
 - Intimidation
 - Disruptive Behavior
 - Information Technology/Acceptable Use
 - Sexual Exploitation



School/Institutional Obligations

- Obligation to address discrimination under Title VI, Title VII, Title IX, and Section 504
- Includes expression that constitutes **harassment** or creates a **hostile environment** based on protected characteristics
- First determine whether the expression is protected
 - If not, respond **promptly** and **effectively** to stop, prevent, and remedy discrimination and harassment

1

STOP discriminatory conduct

2

PREVENT recurrence, on both individual and institutional levels

3

REMEDY the effects of discrimination, on both individual and school/institutional levels

Hostile Environment Standards

TITLE VI

Subjectively **and** objectively offensive; **and** so severe **or** pervasive; that it limits or denies a person's ability to participate in **or** benefit from the Recipient's education program or activity

TITLE IX

Objectively offensive; **and** severe **and** pervasive; interferes with an individual's access to education

TITLE VII

Subjectively **and** objectively offensive; **and** severe **or** pervasive; alters the terms or conditions of a person's employment

SECTION 504

Severe, persistent, **or** pervasive enough to create a hostile environment that denies a student equal access to educational benefits or services

Threats of Harm

Feeling Threatened vs. Being Threatened

Feeling Threatened

- No clear or direct threat of harm
- Based on personal interpretation or discomfort
- Often triggered by tone, posture, or past experiences
- Emotional response to perceived danger
- Managed through awareness, communication, and de-escalation

Being Threatened

- Objective indication of possible harm
- Involves explicit statements or actions of violence
- Observable and verifiable behavior
- Creates immediate safety concern
- Requires activating safety or emergency protocols

True Threat Analysis

In analyzing a true threat, one must assess:

Whether there is a specifically expressed intent to carry out the threat that places the targeted victim in danger

- 1 Directed toward a specific person or group and in what manner
- 2 Clearly expressed intent to harm
- 3 Capable of being carried out
- 4 Objectively threatening (reasonable person standard) and subjectively reckless

True Threat Analysis (Cont.)

In analyzing a true threat, one must assess:

Whether there is a specifically expressed intent to carry out the threat that places the targeted victim in danger

- 5** Harm incurred if carried out
- 6** Explicit and unambiguous
- 7** Context of circumstances

Coordinating Effective Responses

Incident Report From Student

I am concerned about my classmate Gina Lewis. Our instructor was giving a poetry reading at Monarch Café, and we could get extra credit if we attended. I asked Gina if she was going to go, and she said she wanted to, but she didn't think Seth (her boyfriend) would allow her to go.

I was excited when I saw Gina at the reading, but as soon as I started speaking to her, a guy (I assume Seth) came up and snatched her by the arm and told her they were leaving. She looked embarrassed and scared but left with him.

I don't think Seth is a student, but I know from conversation with Gina that they live together, and I also know that she has kids, but I'm not sure if Seth is the dad.

Discussion

- Which area is most likely to receive this report at your school/institution?
- Who needs to be involved in responding to the report?
 - Who should take the lead?
- How should information be shared?

No Wrong Doors

- Administrators should not rely on individuals in crisis to navigate unfamiliar, complex reporting and response systems
- Cross-train employees to be able to triage reports of concerning behavior and get them to the correct office for response
- Centralized reporting mechanisms facilitate easy information transfer



Which Office Should Lead?

Area	Responsibilities	Tools
Student Discipline/ Conduct	Student Conduct Code Enforcement	Student Conduct Process
Human Resources	Employee Policy Enforcement	Employee Discipline Process
Civil Rights Compliance	Nondiscrimination Policy Supportive Measures	Formal Grievance Process Informal Resolution
Law Enforcement/ School Resource Officer (SRO)	Criminal Investigation	No Trespass Orders Criminal Arrest
Behavioral Intervention Team	Risk Assessment and Interventions	Voluntary Interventions Mandated Assessment

Decision Trees

- Helps administrators make decisions by mapping out different choices and their possible outcomes
- A decision tree that incorporates questions about response obligations and known information can help schools/institutions determine which area should take the lead on responding to reported behavior
- Provides consistency in decision-making, especially when there is staff turnover
- Aids in safeguarding against critical compliance requirements being missed
- Requires collaboration and coordination from intake through resolution

Student Conduct Response

- Responsibility to enforce the student conduct code and to ensure the institution's student disciplinary procedures are followed consistently and fairly
- Conduct Code typically includes prohibited conduct that is not based on a protected characteristic
- Process may not be used in lieu of Title IX Formal Grievance Process when that process applies
- Most codes do not have a statute of limitations on when conduct can be addressed
- Outcomes range from warning through separation
- Some departments will offer alternative resolution options

Human Resources Response

- Responsibility to enforce employee behavior policies and to ensure the institution's procedures are followed consistently and fairly
- Policies typically includes prohibited conduct that is not based on a protected characteristic
- Process may not be used in lieu of Title IX Formal Grievance Process when that process applies
- Outcomes range from warning through termination
- Some departments will offer alternative resolution options

Civil Rights Response

- Responsibility to ensure an education and employment environment free from discrimination on the basis of protected characteristics and to ensure the institution's nondiscrimination policy and procedures are followed consistently and fairly
- May oversee one or more policies
- Outcomes range from warning through separation/termination
- Some departments will offer alternative resolution options
- Responsibility for remedies in addition to discipline

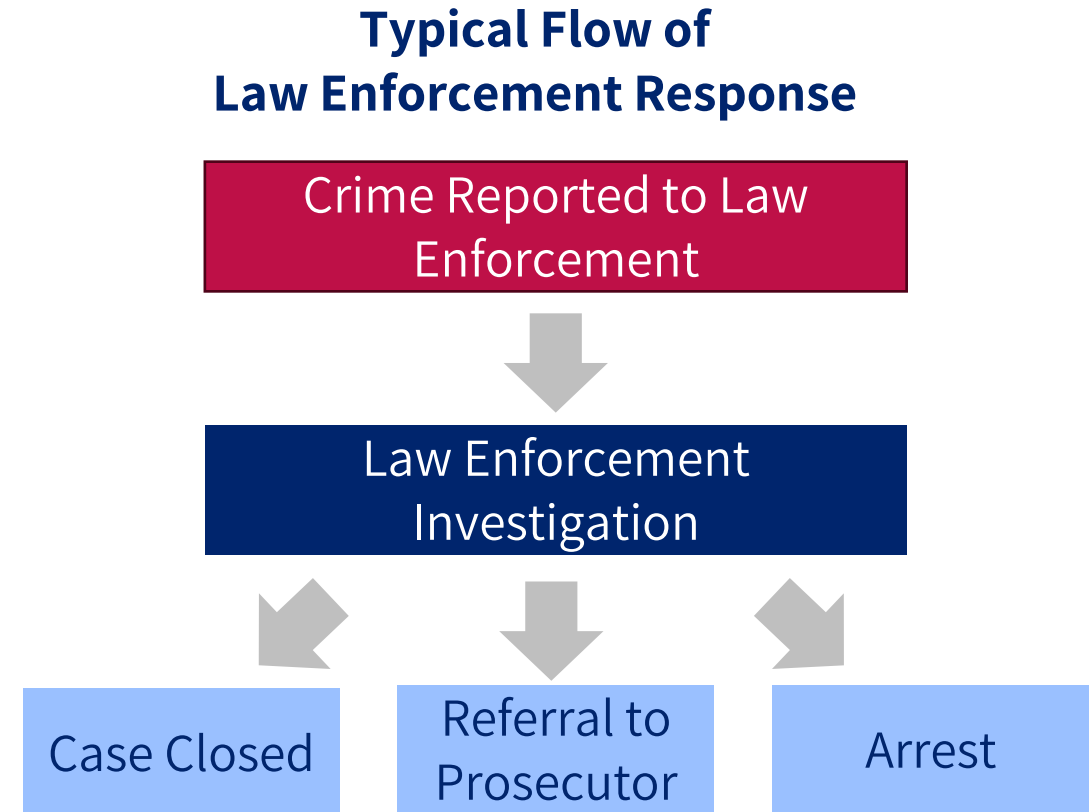
Law Enforcement Involvement

- Law enforcement officers who are employed by the school/institution are mandatory reporters under Title IX
- Schools/Institutions may interface with a variety of law enforcement entities
- Law enforcement may be included in a safety plan, violence risk assessments, welfare checks, or BIT/CARE interventions



Typical Law Enforcement Response

- **K-12 Schools:** May notify police of an incident **OR** police may be notified first
 - Mandatory child abuse reporting laws and requirements
 - State law or school/district policy may require reporting alleged criminal behavior
- **HE Institutions:** Unlikely to notify law enforcement of criminal behavior unless it involves a minor victim or an active threat, or is required by law
 - Campus Security Authorities are required to report Clery Crimes for statistical purposes; often overseen by campus law enforcement



Parallel Investigations

- Schools/Institutions and law enforcement may start an investigation at the same time, and may even share information at various stages, but the investigations should remain separate
 - School/Institution should **not** defer to the law enforcement investigation
 - Not a question of “if” school/institution will investigate, but rather when
 - Federal agencies expect schools/institutions to conduct their own investigation in a prompt manner
- Mandated reporting laws and/or other extenuating circumstances may impact whether law enforcement is able to defer to a Complainant or the parents/guardians of a minor Complainant’s wishes related to the criminal investigation

Criminal vs. Civil Rights Processes

	Law Enforcement	Civil Rights
Behaviors Investigated	Alleged Criminal Statute Violations	Alleged Policy Violations
Basis for Investigation	Reasonable Articulable Suspicion	Notice or Formal Complaint
Investigator Role	Determine whether a crime occurred	Neutral fact-gatherer
Standard of Evidence	Beyond a Reasonable Doubt	Preponderance of the Evidence or Clear and Convincing Evidence
Evidentiary Rules	Federal or State Rules of Evidence	Relevant Evidence
Means to Access Evidence	Warrants Subpoenas	Evidence maintained by or provided to the school

Law Enforcement Evidence Gathering and Investigation

- Jurisdictions vary regarding availability of juvenile detectives and/or special victims unit detectives trained in abuse or violence
- Interview timing/sequencing
 - Police may want to execute a search warrant/subpoena simultaneously with, or ahead of, an interview to prevent evidence destruction
 - Permissible reason for a delay under Title IX
- Specialized protocols and devices to identify and preserve evidence of Child Sexual Abuse Materials (CSAM)
- Subpoenas/search warrants

Delays

- Not uncommon for law enforcement to request the school/institution delay its investigation
 - Goal: avoid “tipping anyone off”
- Law Enforcement may be completely unaware of a school’s obligation to respond
 - Can be surprised by school/district action
 - Many law enforcement agencies are unfamiliar with civil rights obligations
- Delays cannot be indefinite
 - One to two weeks is reasonable; waiting until the criminal case has concluded is not



Forensic Interviews and Examinations

- Child Forensic Interview
 - Likely not conducted by, but in conjunction with, law enforcement
 - Often recorded with the hope that this will be the only time the child is interviewed
 - Can school access or observe interview?
- Sexual Assault Nurse Examiner (SANE) documentation (forensic examination)
 - Complainant must volunteer to participate; may do SANE exam even without criminal investigation
 - Often involves various components, including an evaluation (could include a rape kit) and interview
 - Pediatric SANE exam may only consist of a visual physical evaluation
 - Subject to Title IX medical records provision (if relevant and with written permission)

Access to Law Enforcement Evidence

- Are law enforcement reports publicly available?
 - Depending on jurisdiction, some reports may be public records, and others may be exempt from public disclosure.
- Will the law enforcement agency voluntarily share reports with the school/institution?
 - Very case-by-case situation; school/institution can always ask
 - Based upon shared jurisdiction, collaborative relationships, value to law enforcement investigation
 - Is there a Memorandum of Understanding (MOU) between the agency and school/institution to share information?
- Do the parties have access to records, and if so, will they share them with the school/institution?
 - Crime victims often have some rights to investigation materials and may have more success requesting access to evidence during a pending criminal investigation

Memoranda of Understanding (MOUs)

- MOUs can establish overarching goals for collaboration
- Possible topics:
 - Common purpose to enhance safety
 - Prompt notification of reports while honoring Complainant privacy (where appropriate)
 - Willingness to have staff participate in each other's processes (i.e., as witnesses)
 - Information sharing (as appropriate and permissible)
 - Shared training opportunities
 - Data sharing and after-action discussions
 - Chain of custody; admissibility of evidence

Where do SROs Fit?

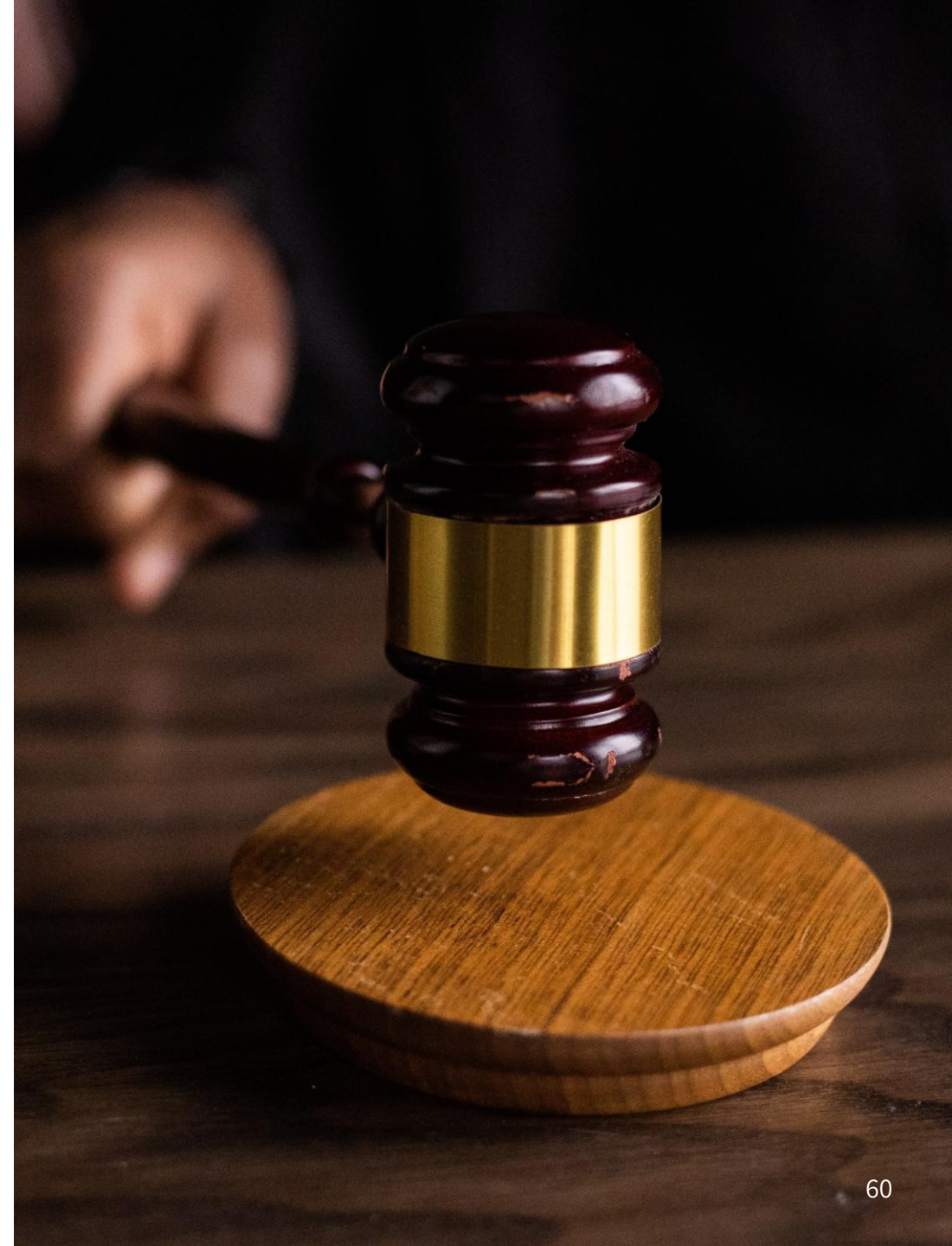
- Involvement with civil rights investigations:
 - Witnesses?
 - At times may be the only “witness” to certain evidence
 - Investigators?
 - Could be a conflict of interest; very uncommon to have SROs investigate
 - Potential drawbacks: more focused on the criminal case, could be more “intimidating” to speak to police, potential due process concerns
- Ideally, the SRO will be a resource to both police and the school/institution in the parallel investigations
 - Liaison: Can facilitate sharing information between law enforcement and school/institution

Law Enforcement Access to School/Institutional Evidence

- Information sharing can be addressed by MOUs, but ensure that procedures honor privacy obligations under law or school/institution's policy
 - Laws and policies may apply to student and/or employee records
 - Law enforcement likely need a judge's order to obtain Family Educational Rights and Privacy Act (FERPA)-protected records, absent an emergency situation
- For students, FERPA applies to education records containing personally identifiable information
 - Many FERPA provisions may allow sharing, including:
 - After consent from parent/guardian (or student if 18 years old)
 - In response to a lawfully issued subpoena or court order
 - SROs may or may not be “school officials” under FERPA

Criminal Outcomes Related to Civil Rights

- Criminal cases may take significant time to investigate and prosecute
 - Never wait for the end of a criminal case to complete the civil rights process
- Whether a person is convicted of a crime is not the same question as whether school/institutional policy was violated
- Criminal outcomes may not remedy school/institutional impacts



Behavioral Intervention and Threat Assessment

Behavioral Intervention Teams

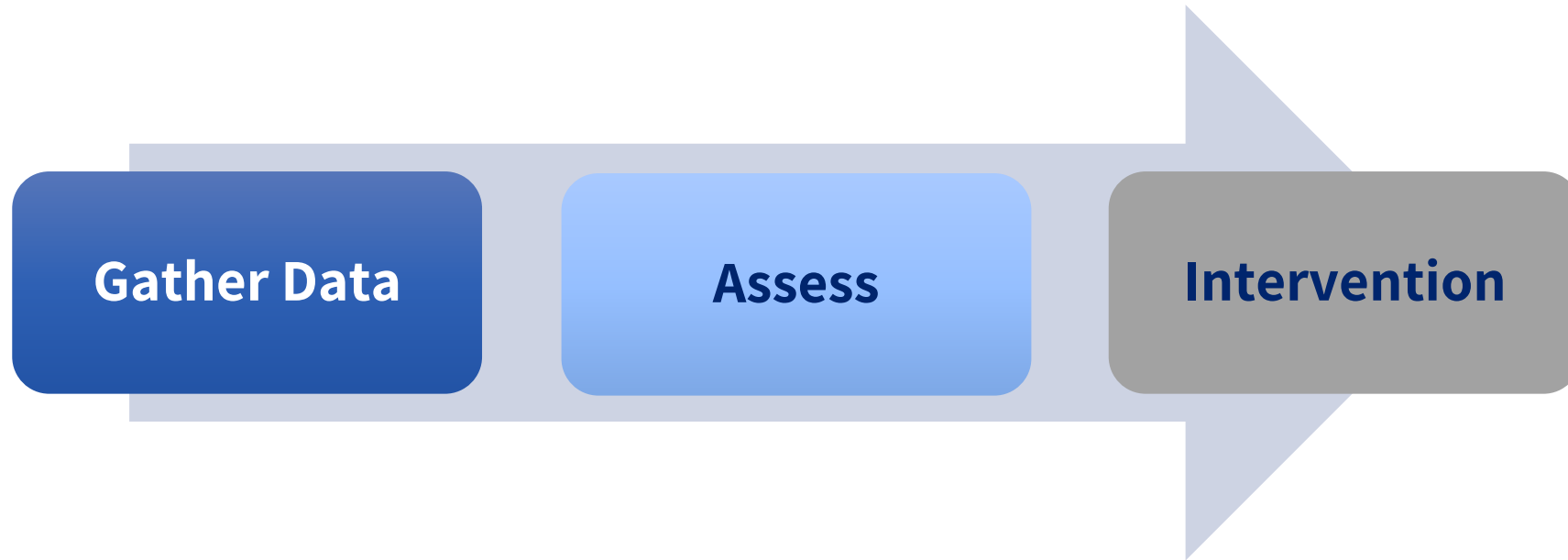
- This course refers to BITs and CARE Teams as a catchall for those groups who coordinate and perform behavioral intervention-related work
 - K-12 schools or others may have a different name and/or this function may be incorporated into another structure (e.g., BTAM)
- BIT/CARE Teams are groups of school/institutional officials who meet regularly to:
 - Gather and review information about individuals in the institutional community
 - Assess level of risk using an objective tool
 - Deploy support, resources, and interventions
- BIT/CARE Teams address far more than IPV and stalking incidents, but may be a resource to assist with an individualized safety and risk analysis and/or additional support for such incidents

BIT/CARE Team Scope

BIT/CARE Teams address all levels of concern from **early intervention** to **threat assessment**



BIT/CARE Team Process



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Behavioral Intervention Referral

Stalking and interpersonal violence will likely result in a referral to the BIT/CARE Team

Common Respondent Referral Concerns

- Mental health
- Substance use or abuse
- Threats of violence to self or others
- Weapons concerns
- Incidents involving aggression, vandalism, hazing, stalking

Common Complainant Referral Concerns

- Physical safety and well-being
- Mental health
- Self-harm or suicidal behavior
- Response behaviors associated with harassment, violence, or stalking allegations
- Basic needs support

Mutual Referrals and Overlap

Civil Rights to BIT/CARE

Civil Rights may refer incident(s) to BIT/CARE Team that do not fall within their jurisdiction or do not rise to the level of a violence risk assessment

Objective VRA

A member of the BIT/CARE Team may conduct a violence risk assessment for individuals that are reportedly engaging in threats or acts of violence



BIT/CARE to Civil Rights

BIT/CARE Team may refer incident(s) to Civil Rights that involve parties being targeted based on a protected characteristic

Supportive Measures

BIT/CARE Team and Civil Rights may provide supportive measures to those participating in a disciplinary process

Information Sharing

- **Civil Rights and BIT/CARE Team may share information in a streamlined and timely manner**
 - FERPA: legitimate educational interest

Supportive Measures

- No contact orders
- Housing assignments and restrictions
- Academic or employment modifications
- Location/activity restrictions
- Emergency Removals/Interim Suspensions

Commonly Shared Information

- Pending violence risk assessment process and report
- Pending investigations, informal resolutions, hearing process
- Outcomes, sanctions, and remedies
- Pending criminal investigations

Assessment Types

General Risk Assessment: Broadly used for a variety of situations and concerning behaviors; Focuses on proactive approach, with interventions to lower risk and ease distress.

Threat Assessment: Completed in response to explicit or veiled threat; looking at access, means, and motivation. What is the actionability of this threat? Typically conducted by law enforcement or a mobile crisis team.

Psychological Assessment: Conducted by a trained, licensed clinician; Focuses on determining diagnosis and treatment plan such as therapeutic intervention, medication, hospitalization, etc.

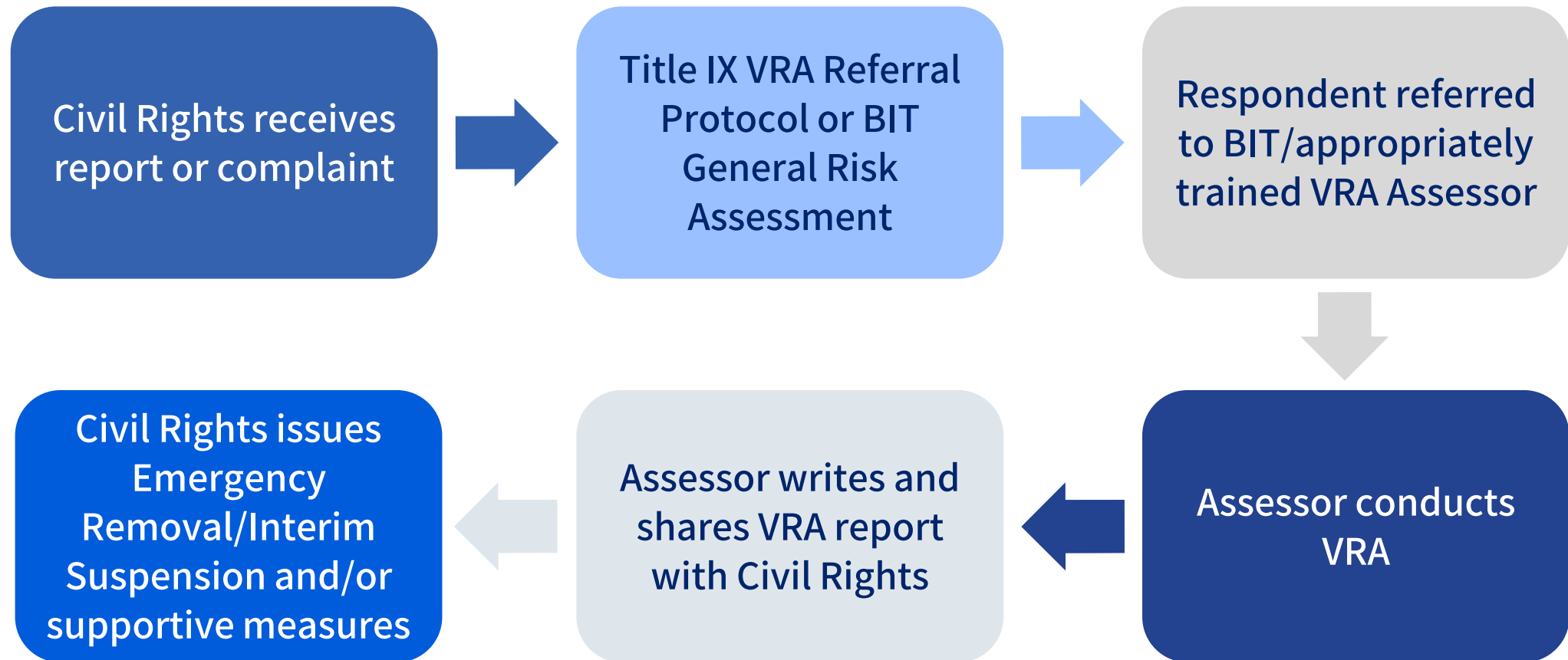
Violence Risk Assessment: Helps determine potential violence or dangerousness toward a person, group, or system; Explores various risk factors and protective elements in a comprehensive manner; Can be mandated.

Violence Risk Assessment (VRA) Process

VRA Process Considerations

- What VRA tool or protocol will be used to complete an individualized risk assessment?
 - If deploying an established tool:
 - Was it developed using current research?
 - Is it reliable?
- Who will be designated to conduct the VRA?
 - What training should they obtain or have?
 - What is their availability to complete a VRA in a timely manner?

Civil Rights VRA Process



ATIXA Title IX VRA Referral Protocol – Stalking Excerpt

	Points	Description
☐	1 Point	The reported incident(s) is recent
☐	1 Point	The Respondent has access to weapons
☐	2 Points	The Respondent has engaged in spoofing, doxing, or other incursion to harm the Complainant
☐	3 Points	The Respondent has violated a no contact order, restraining order, or order of protection related to this allegation

- **0-3 total points** = Potential non-imminent threat; refer to BIT/BTAM
- **4+ total points** = Potential imminent threat; initiate VRA as part of emergency removal process

ATIXA Title IX VRA Referral Protocol – Dating Violence Excerpt

	Points	Description
☐	1 Point	The reported incident(s) is recent
☐	1 Point	The Respondent has access to weapons
☐	2 Points	The reported violence has escalated and/or increased in severity and/or frequency
☐	3 Points	The Respondent has violated a no contact order, restraining order, or order of protection related to this allegation

- **0-3 total points** = Potential non-imminent threat; refer to BIT/BTAM
- **4+ total points** = Potential imminent threat; initiate VRA as part of emergency removal process

Violence Risk Assessment Referrals

VRA Referrals

- Civil Rights administrators should consult with their BIT/CARE Team for any violence risk assessment needs
- **Presence of one or more of the following risk factors would likely necessitate a VRA:**
 - Incident(s) included violence resulting in injuries or significant safety risks
 - Respondent has made threats to kill the Complainant or others
 - Respondent has made threats of future violence that could result in harm to the Complainant or to those close to the Complainant, including animals
 - Incident(s) involved the use of a lethal weapon
 - Allegations of ongoing stalking behaviors

NABITA Risk Rubric

- BIT/CARE Team should assess each individual referred to determine an initial risk rating on the NABITA Risk Rubric or a similar objective risk assessment tool
- Individuals who receive an overall risk rating of **Elevated** or **Critical** should be referred for a violence risk assessment
 - Structured Interview for Violence Risk Assessment (SIVRA) for harm to others
 - Non-Clinical Assessment of Suicide (NAS) for harm to self



Risk Rubric

NABITA Risk Assessment Tool

Administering and Interpreting a VRA

Administering a VRA

- No specific position or educational degree required
 - Should not be the TIXC or TVIC
 - Conducted by trained Assessor; could be a member of BIT/CARE Team
- Requires training and expertise in using an objective risk assessment tool
- Competency in:
 - Conducting a VRA
 - Gathering information
 - Building rapport
 - Bias and cultural issues

VRA Elements

Precipitating Events

What might have precipitated the behavior or threat?

Cultural Factors

What cultural factors might be at play?



Individual

What do we know about the individual and their baseline behavior?

Content

What type of behavior is present?

VRA Notification Process

If there is a need to initiate a VRA as part of a civil rights process, **ATIXA recommends** the following steps:

1. Civil Rights staff mandates a VRA of the Respondent
 - Written notification provided to Respondent including:
 - Obligation to comply
 - Rights of Respondent
2. Civil Rights staff notifies the BIT/CARE Team or designated VRA Assessor and provides documentation regarding the incident(s) and/or behavior(s) that required a VRA referral
3. If the Respondent does not fully cooperate with the VRA, the Respondent is referred to the student conduct process for failure to comply

VRA Results

- The Assessor should compile the VRA results into a comprehensive VRA report and provide it to the appropriate administrator at the conclusion of the assessment
- VRA report guides the school/institution's 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 immediate violence (typically based on objective ratings)
- **VRA report provides the objective basis for Emergency Removal determination**
- Schools/Institutions should consider using a template for the VRA report to ensure consistency across reports and thorough documentation

Format and Structure



VRA Results Example

Risk/Protective Factor	Presence Significantly, Partially, or Not Present	Notes
1. Communicated a Threat	Significantly Present	The interviewee stated via text message that he would kill the target if they reported the alleged abuse to the institution. Interviewee reports that they would never follow through with these statements.
4. Planning Behaviors	Not Present	The interviewee reports no drawings, writings, verbal communications or thoughts about harming others. No additional information collected indicates the presence of such material.
9. Suicidality	Partially Present	The interviewee reports passive suicide ideation, but has no plans, intention, or means.

Supportive Measures and Safety Actions

Protective Orders Primer

- Terminology differs by state: Restraining Orders, Protection from Abuse (PFA), Protection from Harassment (PFH) are common examples
 - May require a qualifying relationship in some circumstances or jurisdictions
- Separate from school/institution-issued no contact orders, but can impact school environment
 - Might have geographical restrictions, even including a physical distance from Victim/Complainant



Protective Orders Primer (Cont.)

- Judges can typically impose temporary or long-term protection orders with or without a criminal case
 - In some jurisdictions, police may be able to impose immediate very short-term contact restrictions (e.g., overnight)
 - Temporary orders may last 14-21 days and are followed by a hearing to extend
 - Contact restrictions may be imposed following an arrest, if requested, as a condition of release, separate from any additional court orders
- Not necessarily “evidence” that an incident has occurred

Navigating Protective Orders

- Judges vary as to how attentive they are to school-based logistics
 - Likely allow both parties to attend school/work absent exceptional circumstances
 - Requires the judge being aware of any school-based issues (same bus, etc.)
 - Should not replace school's Emergency Removal assessment, if applicable
- School should empower students/employees to follow protective orders
 - May need to consult with law enforcement to seek clarification of terms
- School/institution must abide by protective order that prohibits the presence of one party from the school/institution

No Contact Orders (NCO)

- An NCO is a(n) school/institution-based/administrative (non-punitive) directive which may be issued to members of a school community in response to an alleged violation of an established school policy or for specific safety purposes
- NCOs may involve two or more individuals, and may impose restrictions on proximity, contact, presence, first-controlled space, etc.
- NCOs assist with preventing contact and in minimizing/defusing conflict (in person, electronic devices and platforms, via third parties)
- May be issued by school/institutional officials based on need or emergency status, or at the request of Complainant
- May be mutual or unilateral

Safety Plans

- **Safety Plan:** a personalized, practical set of actions that can help lower risk for harm while experiencing abuse or harassment
 - Includes information specific to the Complainant and their life that will increase their safety at school, home, and other places they visit routinely
 - Outlines necessary actions and available resources
 - Accounts for children and pets as applicable
- Complainant should keep a printed copy in a safe place, if possible, and provide a copy to a trusted friend or family member
- May require revision as circumstances change
- Often made with assistance from community-based resources

Safety Planning Considerations

Administrators should engage in safety planning that considers:

- Level of access to the Complainant
- Full history of the alleged behaviors and context of the relationship
- Available support person(s) and immediate school/institutional resources
- Community-based resources
- Law enforcement or civil support options



Safety Planning Action Examples

General

- Consider physical exit/escape options (e.g., vehicle, classroom, home)
- Alter schedules and routes
- Cease communication with Respondent
- Inform support system
- Notify school resource officer (SRO), campus security, and/or police
- Secure an emergency protective order
- Seek victim services assistance

Workplace/School Specific

- Inform residence life, coaches, teachers, supervisor, or other key administrators
- Provide photo to campus security/police or school resource officer (SRO)
- Remove FERPA directory information
- Request supportive measures
- Use safety escorts while on school property
- Change workflow protocols

Safety Planning Action Examples (Cont.)

Online

- Change passwords and answers to security questions
- Update privacy settings
- Implement multifactor verifications options
- Disable location sharing/tracking
- Set up fraud alerts with credit bureaus
- Acquire new devices

Interim Safety Actions – Non-Title IX

- Students accused of Non-Sex-Based Discrimination, Harassment, Retaliation, or Other Prohibited Conduct may be subject to **interim suspension**, which can be imposed for safety reasons
 - ATIXA recommends having established criteria for determining when to interim suspend a student
 - Using an individualized risk assessment would provide sufficient documentation and rationale
- Employee Respondents may be placed on administrative leave consistent with school/institutional policy

Title IX Emergency Removal and Administrative Leave

- School/Institution may **emergency remove** a student accused of Title IX Sexual Harassment upon receipt of a Formal Complaint or at any time during the Formal Grievance Process
 - Requires an **individualized risk assessment** that assessment determines there is an **immediate threat** to the **physical health or safety** of any student or other individual that justifies removal
 - An intentionally high standard; Emergency Removal should be rare
 - 2020 Title IX regulations do not detail what is required for an individualized risk assessment
- Non-student employee Respondents can be placed on **administrative leave** during a Title IX Grievance Process
 - Follow school/institutional policy

Emergency Removals

Emergency Removals provide the school/institution with the appropriate flexibility to respond to reports of sexual harassment, including to:

Preserve educational
access

Protect the safety of all
parties

Respond to emergency
situations

Emergency Removal is **not intended to serve as a substitute** for resolution procedures that would resolve underlying allegations of sexual harassment

Case Study Revisited

BIT Notes from Title IX Coordinator

Called Gina and requested an in-person meeting. Student was reluctant to meet without more information. Explained to the student that a peer had expressed concern about her wellbeing related to her dating relationship. Student continued to be reluctant but ultimately agreed to meet.

During our meeting, student confirmed they are in a relationship with Seth who is not a student. They reside together along with her young children. Seth is not the children's father. Student expressed feeling stuck in the relationship due to restrictions on her ability to earn an income and not wanting to risk losing custody of her children to their father if he finds out about the home situation.

Second Incident Report From Student

I already sent in a report, but I now have more information. I think Seth took pics of Gina without her knowing and posted them online when he got mad at her for talking to me at the poetry reading. She texted me and said he told her, “she wouldn’t talk to other guys again if she knew what was good for her.” And I guess he said something about a site where guys can post nudes of their sex partners for other people to see.

I looked for the site. I found it and I looked through the pics. I think there are some of Gina, but her face isn’t visible. I think it’s her because of a scar that she mentioned she has on her back.

Additional Title IX Coordinator Notes

Spoke with student via telephone regarding supplementary BIT Report from Warren. Student became very distraught, but I was able to determine that the photos in question are not her based on date stamps and the location of the scar in question. I did not share with her who submitted the report.

Student independently brought up Warren in conversation and expressed concern about Warren acting like he “needs to protect [her],” such as following her to her car after class, sitting near her during class, offering to allow her to stay at his residence, etc. Student explained she met Warren in class this semester and they are “class friends” but she does not wish to engage with him beyond that.

Case Study Discussion

- Was having the Title IX Coordinator reach out first consistent with your thinking?
- What other interventions would you recommend in this situation?
- Who should be involved in implementing those interventions?

Questions?

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