

Inclusive and Trauma-Informed Investigations

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Objectives

- Identify ways in which to promote the likelihood that community members will experience the “Title IX process” as an inclusive one.
- Understand what it means to conduct a “trauma informed” interview.
- Identify additional ways in which to ensure effective investigation interviews.

The Reporting Context

- United States DOJ research and numerous campus climate surveys indicate that as many as 80% of students who experience sexual assault and other sexual harassment do not report it to any official authority.
- The incidence of non-reporting is higher for members of traditionally marginalized (as well as traditionally targeted) communities, including people of color, LGBTQ+ individuals, and individuals with disabilities.
- Male students are less likely to report than females but 12.5% of male students report having experienced unwelcome sexual conduct.
- International students are far less likely to report incidents of sexual misconduct.
- Faculty members are apprehensive about reporting incidents of sexual misconduct they experience and are uncertain to whom they should report.

Reasons for Low Reporting Rate

- Fear of not being believed
- Feeling that it is “not serious enough”
- Concern about being socially stigmatized
- Feelings of embarrassment or shame
- Concern about “ruining the Respondent’s life”
- Overall lack of trust in the process – what does this mean? (input)

What Can We Do to Improve the Reporting Rate?

- Provide different options for reporting.
- Communicate these options clearly, periodically (not once) and in different forms.
- Engage student groups and organizations in getting the message out.
- Review campus climate data and identify campus-specific (or campus culture-specific) obstacles to reporting.
- Solicit feedback about your process and be willing to revisit it.

The Inclusivity Point

- *An inclusive process or space is one in which people of all identities, backgrounds, and characteristics feel safe, seen, heard, and respected.*
- *Increasingly, students and their families are identifying this as a relevant factor in selecting a college or university.*

Promoting Inclusivity

- **Establish connections** with student leaders of affinity groups and student organizations early in the year (e.g., LGBTQ+; first-gen; students of color; international students, etc.); **arrange for periodic meetings to discuss student awareness** of the process and to **address any concerns** about inclusivity or implicit bias.
- Engage in regular communications **on this subject** with DEI staff, campus police, CARE teams, Mental Health/Wellness, Athletics, Greek life – etc. Put an “inclusivity” topic on the agenda.
- **Notice** whether members of marginalized communities are coming forward with complaints **and if they are not, develop a plan to understand why not.**

A Word About Microaggressions

Microaggressions are the everyday verbal, nonverbal, and environmental slights, snubs, or insults, whether intentional or not, that communicate hostile, derogatory, or negative messages to target persons based solely upon their marginalized group membership.

-- Diversity in the Classroom, UCLA Diversity & Faculty Development (2014)

Microaggression Examples

- Saying, “You people....” or “People like you....”
- Assuming that a person is either “he” or “she”
- Saying, “You speak English very well”
- Continuing to mispronounce a student’s name
- Monitoring a person of color differently from a white person (in an office or waiting area)
- Identifying a person by the color of their skin when there is no reason to do so.
- When and in what context have you observed or heard about microaggressions in your Title IX Coordinator role?

Establishing Trust – Consider the TIX Office and Materials

- Does the physical space and its content (posters on the wall, books on shelves) send a message of cultural and gender inclusivity?
- Does the physical space have rooms or areas that feel private and safe?
- What do students walk by in order to get to the Title IX Office?
- Do you provide both complainants and respondents with comparable materials containing information about resources?
- If the materials contain graphics are those graphics inclusive?
- Consider providing information about affinity groups, not just sexual assault resources. **Remember the intersectional nature of identity.**

Remind Yourself of the Objectives of the TIX Intake Process

- Establish a connection with the student that enables the student to feel safe and to start building trust in the process. Avoid any expression of opinion or bias in doing this.
- Provide the student with relevant information about the options that are available.
- Ask the student to tell you of any immediate concerns they have and address those concerns.
- Develop a plan with the student for communication of status updates.

Feedback on Trust Question

Students have low level of trust in process

- *Fear of losing control and/or feeling alone in process*
 - *Too lengthy*
 - *Too legalistic and complicated*
 - *Outcome will not be worth the struggle*
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- *Faculty often have low level of understanding of process*

How do we address these concerns?

- Encourage students to think about what outcome they seek and why.
- Explain the options clearly, particularly the reasons for the length and complexity of the formal process.
- Encourage the parties to ask questions and to be in touch with you.
Make sure parties understand how to find advisors and train advisors.
- Ask students about their sources of support and be prepared to offer additional ones.

Educate Yourself on Cultural Differences

When you have the opportunity, learn about current research on the cultural differences that may influence both the verbal and on-verbal behavior of the students with the students with whom you interact.

Recommended Reading:

Multicultural Competence in Student Affairs, Second Edition (Pope, Reynolds, Mueller)(2019)

The Four Skills of Cultural Diversity Competence (M. Hogan)(2012)

Expand Your Borders (David Livermore, PhD.)(2013)

Educate Yourself on Implicit/Unconscious Bias

This will enable you to recognize bias and avoid being influenced by it. Some common types of bias include:

- Affinity bias (liking and believing people who look like you)
- Attractiveness bias (liking and believing attractive people)
- Availability bias (thinking that examples of things that come to mind readily are more common than they are in reality)
- Confirmation bias (looking for information that is consistent with an existing opinion and ignoring contradictory information)
- Conformity bias (tendency to be influenced by a group member's view)
- Halo Effect/Horns Effect (if a person is positive or negative in one respect they are “all good” or “all bad”)

Investigation Interviews – General

Manage your time so that you do not feel overly rushed or burdened by other matters when doing the interview because:

- this will enable you to create a **better connection** with the interviewee; you are more likely to engage in active listening and to project an attitude of interest and caring;
- you are **less likely to be affected by any internal biases** you have;
- you are **more likely to conduct a thorough interview**.

Investigation Interview Logistics

Whether in person or on Zoom (or another remote platform), talk a bit about the logistics and create a connection on the following points:

- explain whether you are or are not recording the interview and confirm that the interviewee is not recording it;
- confirm that the space is private – both for you and for the interviewee;
- ask the interviewee if he/she/they have questions before you begin and be prepared to answer them – know to whom they should pose any questions you cannot answer; and
- offer to explain the process.

Inclusive Investigation Interview Language & Conduct

- Confirm the interviewee's pronouns and use them; pay attention to pronouns generally.
- If you are using Zoom, confirm that the interviewee can see and hear you clearly. Be alert to any need for an accommodation.
- If the interviewee expresses difficulty understanding a question, stay patient and rephrase it. If language comfort is the issue be prepared to offer to reschedule with an interpreter.
- Your tone and affect must be empathetic and non-judgmental at all times.
- If the interviewee appears to be looking down (on Zoom), ask if they are reading from anything as they respond. If they tell you that they are, ask why. Do not express judgment; do ask for copies of any notes.

Interviews of the Parties

- Plan to conduct two interviews of each party but don't be repetitive.
- In the initial interview, allow each party to provide an account of the alleged incident. Then follow up with some questions.
- Provide Respondent (in initial interview) with details from Complainant's interview.
- Provide Complainant (in second interview) with details from Respondent's interview, as well as from witness interviews
- Provide Respondent (in second interview) with details from all other interviews.

The Trauma-Informed Interview

Investigators need to know something about the neurobiology of trauma:

- in order to conduct an effective interview; and
- so that they do not mistake the effects of trauma for indicia of a lack of credibility.

This knowledge is a tool, not a bias towards the complainant who may or may not have been traumatized by an act that may or may not amount to a policy violation.

The Neurobiology of Trauma

When a person undergoes trauma, the brain goes into “survival” mode; this replaces executive functioning and involves a release of several hormones that have an impact on action and memory.

- A trauma survivor may recall some details and have no recollection of others.
- A trauma survivor may not recall things in a linear fashion.
- A trauma survivor may have sensory memories and little else.
- A trauma survivor’s demeanor may be hostile, flat, emotional, bored – or all of the above.

What “Trauma-Informed” Does Not Mean

- A “trauma-informed” approach does NOT mean that you assume the Complainant experienced sexual assault.
- A “trauma-informed” approach does not mean that you ignore inconsistencies in the Complainant’s account or action/lack of action on the Complainant’s part (*e.g.*, in resisting, reporting, cooperation with law enforcement or the school).
- A “trauma-informed” approach does not mean that you believe the Complainant’s word over the Respondent’s because the Complainant is a complainant.

Remember

- Any student (or faculty, staff member, or other witness) whom you interview may have experienced a trauma.
- Your goal is to get the information that the decision-maker will require in order to determine whether a policy has been violated.
- Balance the desire not to “re-traumatize” the interviewee with your responsibility to get the relevant information. Work with the interviewee to do this.

Trauma-Informed Language

- Ask each party whether they would prefer that you refer to the other as “Complainant” or “Respondent” as opposed to by name.
- Refer to the sexual interaction not the “sexual experience.”
- Use the term “penetration” not “sexual intercourse” or “sex.”
- Do not assume either party considers what they had with the other party to have been a “relationship.”
- Avoid asking “why not” if the interviewee states that they did not say or do something – ask the interviewee to “say more about that” instead.
- Ask about thoughts and feelings, not just facts.

Mental Health Awareness

- There has been an increase in the number of students both identifying as having mental health challenges and seeking treatment for mental health disorders, particularly depression and anxiety.
- An increasing percentage of students reporting sexual misconduct report having on-going mental health issues as a result.
- The “trauma-informed” interview skills are useful tools when dealing with a student who has a mental health disorder.
- Make an effort to create a space in which the student feels safe disclosing a mental health issue so that it can be managed as safely and appropriately as possible.

Thoughts From Participants

Any tips, comments, anecdotes about how to conduct an inclusive and trauma-informed investigation?