



COLORADO LEAGUE *of*
CHARTER SCHOOLS



Title IX Coordinator Training
Session 3
September 9, 2021

Title IX Coordinator Course Outline

Session 1: Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures

Session 2: Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport During Intake Interviews

Session 3: Considerations for Specific Student Populations & Trauma-Informed Approaches

Session 4: Managing Informal Resolutions

Session 5: Managing Formal Resolutions, including Best Practices for Investigations

Session 6: Record Keeping and External Complaints to the Department of Education

Session 3 Handouts

Handout 1 – Letter of Notification from Office of Civil Rights, August 31, 2020

Handout 2 – *Civil Rights Law Protects Gay and Transgender Workers, Supreme Court Rules*, NY Times, June 15, 2020

Handout 3 – Notice of Interpretation from Department of Education regarding Sexual Orientation & Gender Identity, June 16, 2021

Questions?


What was the most valuable takeaway from last session?

What topic do you need more clarity around?



Title IX Coordinator & Investigator?

A Title IX Coordinator can be an investigator BUT:

- Recognize the difficulty in managing the Title IX process as well as conducting the investigation.
 - Consider delegating other Title IX Coordinator duties, such as having another school staff member provide and implement supportive measures.
 - Be mindful of concerns or perceptions of bias or lack of objectivity.
- 



Choosing an Investigator

Fair, impartial and trained

Independent

Free of conflicts of interest

Able to discuss difficult topics with compassion

Effective listener

Good communication skills

Comfortable making credibility assessments


Ideally not involved in other aspects of the Title IX Process



Employee Rights under Title IX

- Employees are covered by Title IX.
- Employee sexual harassment complaints should be processed with the same process as student complaints BUT:
 - Consider using different decision-makers
 - Get advice! CLCS, counsel, Karin, etc.
- The Dept. of Education rarely deals with employee Title IX complaints
 - Referred to Equal Employment Opportunity Commission (EEOC)

Title IX Considerations for Specific Student Populations



Specific Student Populations

Transgender status

Gender Identity

Gender Expression

Sexual Orientation

Transgender

Disability

Transgender Status & Sexual Orientation

State Law Status:

Colorado is one of 22 states that recognizes protections on the basis of sexual orientation and transgender status through the Colorado Anti-Discrimination Act (2013).

“Public accommodations” include public schools.

Transgender protections in schools have developed over time:

- Uses of bathroom, locker room and other facilities

- Extracurricular activities

- Sports

- Preferred Names

Transgender Status & Sexual Orientation

At federal level, there has been a lot of turbulence over the past ten year regarding what protections students have in terms of transgender status.

Obama Administration issued explicit protections for transgender students in Dear Colleague Letter:

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>

Trump Administration rescinded the DCLs and by extension, those protections:

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201702-title-ix.pdf>

Transgender Status & Sexual Orientation

Biden Administration is expected to reinstate protections based on the June 2020 Supreme Court case *Bostock Vs. Clayton County* (“*Bostock*”)

Bostock recognized sexual orientation and transgender protections in Title VII of the 1964 Civil Rights Act. Title VII prohibits discrimination in employment on the basis of sex and the Court recognized sexual orientation and transgender status as falling within the broader category of sex.

Transgender Status & Sexual Orientation

Most legal scholars believe that the same protections will be extended in Title IX since it is a part of the same law.

Handout 1 - OCR Letter of Notification regarding transgender students

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201702-title-ix.pdf>

Handout 2 - *Civil Rights Law Protects Gay and Transgender Workers, Supreme Court Rules*, NY Times, June 15, 2020.

Handout 3 – Notice of Interpretation from Department of Education, June 16, 2021

Transgender Status & Sexual Orientation

"...[I]n cases where a complaint alleges that a school's action or policy excludes a person from participation in, denies a person the benefits of, or subjects a person to discrimination under an education program or activity, on the basis of sex, the Bostock opinion guides OCRs understanding that discrimination against a person based on their status as homosexual or transgender generally involves discrimination on the basis of their biological sex."

OCR's Resources for LGBTQ Students
<https://www2.ed.gov/about/offices/list/ocr/lgbt.html>

Transgender Status & Sexual Orientation

Policy Note:

Treat any reports of sexual harassment related to sexual orientation or transgender status as you would any other complaint in the process.

We will likely get more guidance on these issues in 2021 and beyond.

Disability

According to the National Center for Education Statistics, an estimated 7 million public school students have an IEP or 504 plan for a disability.

Some studies estimate that individuals with disabilities are three to five times more likely to experience unwelcome sexual contacts in their lives, including at school.

Students who have disabilities may require supports or accommodations through a Title IX process.

Disability

Be proactive and plan for the intersection of Title IX and disability obligations!

Title IX Coordinators should engage in discussions with staff charged with accessibility services.

Reference accessibility services in Title IX FAQs.

Offer assistance in the Title IX process to qualified disabled students.

Adopt language from the school's general student conduct procedure stating that accommodations may be available.

Accommodating Disabilities in the Title IX Processes

Confirm the Disability.

The Title IX Coordinator may request confirmation from accessibility staff members that the student has a disability and any accommodations they may already have in place.

The Title IX Coordinator should not receive or evaluate any medical documentation.

Investigators who receive disability accommodation requests should refer them promptly to the Title IX coordinator.

Accommodating Disabilities in the Title IX Processes

Identify potential accommodations.

Once the disability is confirmed, the Title IX Coordinator should consult with accessibility staff to identify appropriate accommodations.

Determine whether previously approved disability accommodations may be allowed in the Title IX process.

Accommodations to consider include: extra time to review and respond to documents; longer or more frequent breaks during interviews; and auxiliary aids or assistive devices, including an interpreter, note-taker, recording device, or copies of documents.

Accommodating Disabilities in the Title IX Processes

Carefully evaluate requests.

Note that assistance that provides preferential advantage over the other party would be an unreasonable accommodation. If this is a concern, make the same accommodation available to the other party, even if they do not have a disability. For example, if one party receives extra time or is allowed to copy documents, extend the accommodation to the other party.

Accommodations should not fundamentally alter the Title IX process. If the number or scope of accommodations would result in major changes your Title IX process significantly, seek legal advice.

Accommodating Disabilities in the Title IX Processes

Providing Accommodation

Any approved accommodation should be documented through accessibility staff members (remaining a part of the disability documentation) or the Title IX Coordinator (remaining a part of the Title IX file).

Maintain confidentiality about the requesting party's disability throughout the process.

Accommodating Disabilities in the Title IX Processes

Policy Note:

Consider language used in your Title IX policy to distinguish between 'accommodations' used to address disability-related needs and 'accommodations' to describe interim or supportive measures implemented elsewhere in the Title IX process.

Understanding Trauma



What is Trauma?

The **unique individual experience** of an event or enduring conditions, in which: the individual's ability to integrate his/her emotional experience is overwhelmed; or the individual subjectively experiences a threat to life, bodily integrity, or sanity

Esther Giller, *What is Psychological Trauma?* Sidran Institute (1999).

Goal: A Trauma- Informed Approach to Title IX Complaints

A program, organization, or system that is trauma-informed:

Realizes
widespread
impact of
trauma

Recognizes the
signs and
symptoms of
trauma

Responds by
integrating
knowledge
about trauma
into policies,
procedures,
and practices

Seeks to
actively
prevent re-
traumatization

Why have a Trauma- Informed process?

- To avoid re-traumatizing individuals impacted by misconduct
- Avoid creating or perpetuating a hostile environment
- Better investigations
- Required by Title IX regulations

Who Should be Trauma- Informed?

- Title IX Coordinator
- Investigator(s)
- Decision-Makers
- SROs
- School leaders
- Teachers
- Service providers such as counselors and other healthcare professionals
- Students

Exacerbators of Trauma

- Severity of experience
- Interpersonal event
 - as opposed to non-interpersonal events such as accidents and natural disasters
 - Impact views regarding safety, intimacy, and trustworthiness of others
- Chronic or repeated experiences
 - Persistent traumas may leave the survivor feeling overwhelmed, helpless, and with a sense that the trauma is inescapable

Stress Responses to Traumatic Events

Fight, Flight, Or Freeze

When a person is under stress, a cocktail of stress chemicals are released:

- **Catecholamines:** Fight or flight response
- **Cortisol:** Makes energy available
- **Opioids:** Prevents pain
- **Oxytocin:** Promotes good feelings

Fight or Flight

- Increased heart rate & blood pressure, hyper ventilation, glucose to major muscles
- Digestive and immune systems shutdown to conserve energy for fight or flight
- Rational thought impaired (*e.g., may not realize the door is open or that someone in the next room would hear if she screamed*)
- Sensory details, especially olfactory, more prominent
- Focus on “survival” rather than remembering “what happened”
- Opioids released have a numbing, “spacey” effect

Freeze

- Sometimes a victim's body shuts down (freezes) – tonic immobility (aka “Deer in headlights” effect)
- Parasympathetic nervous system is activated
 - “Playing dead” (aka “collapsed immobility”)
 - Unable to speak
 - Muscles relax
 - Endorphins released to numb pain, decrease panic, and increase chances of survival
 - Orientation towards fear with no outward sign of stress; glazed look but conscious
 - Numbness
 - Sense of heaviness
 - Feeling stuck in some part of the body
 - Dissociated from emotions, rational thought is decreased

Why Would the Body Freeze?

Research studies with animals have documented that sometimes the best way to protect the body is to freeze, to play dead, fighting back or fleeing would only prolong the threat and endanger the body even worse (maybe even risk death). In other words, sometimes the safest solution isn't fight-or-flight. The safest option is to freeze and so the brain and body work together to hold the organism still until the threat has passed.

- Dr. Rebecca Campbell, Michigan State University

- Fight, flight, or freeze = are all normal, biological responses to threatening encounters
- These responses are autonomic, which means they happen automatically without conscious thought or decision making

Counter-intuitive Behavior



*Why didn't she
scream?*



*Why didn't he try
to run away?*



*Why didn't they
fight back?*



*Why didn't she
say 'no'?*

Behavior During Interviews

Survivor behavior during interviews may appear odd. Remember that they may continue to be affected by the ‘chemical cocktail’ associated with trauma when recalling a traumatic event

Various normal responses include:

- Emotional, crying, hysterical
- Flat affect – seeming numb
- Laughing, light-heartedness, inappropriate
- Cycling of emotions

Trauma and Memory

*She can't get her story
straight...*

*How could she not
remember something as
significant as **that**?*

*He is obviously making it up
as he goes along...*

Trauma and Memory

Explicit Memory: can be consciously and intentionally recalled

- Facts, general knowledge, autobiographical (*placing self in space & time*)

Implicit Memory: Remember unconsciously and effortlessly

- Emotional responses, body sensations, reflexive actions

Under extreme stress, the initial sorting of explicit and implicit layers continues, but processing is interrupted.

Trauma and Memory

Memories of a Traumatic Event:

- Stored in amygdala (implicit)
- Non-linear recall of events
- Poor recall of contextual information (like the layout of a room)
- Details are fuzzy
- Focus may be on what someone did to survive event; what are perceived as important details to victim may seem odd

Memories of a Non-Traumatic Event:

- Stored in hippocampus (explicit)
- Linear recall of events
- Specific details
- “Significant details” make sense

Post Traumatic Stress Disorder - PTSD

(American Psychiatry Association, "*What is PTSD?*" 2014)

Post-traumatic stress disorder (PTSD) is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event.

Symptoms of PTSD fall into four categories and vary in severity:

- **Intrusive thoughts** such as repeated, involuntary memories; distressing dreams; or flashbacks of the traumatic event. Flashbacks may be so vivid that people feel they are re-living the traumatic experience or seeing it before their eyes.
- **Avoiding reminders** of the traumatic event may include avoiding people, places, activities, objects and situations that bring on distressing memories. People may try to avoid remembering or thinking about the traumatic event. They may resist talking about what happened or how they feel about it.

Post Traumatic Stress Disorder - PTSD

(American Psychiatry Association, "What is PTSD?" 2014)

- **Negative thoughts and feelings** may include ongoing and distorted beliefs about oneself or others (e.g., "I am bad," "No one can be trusted"); ongoing fear, horror, anger, guilt or shame; much less interest in activities previously enjoyed; or feeling detached or estranged from others.
- **Arousal and reactive symptoms** may include being irritable and having angry outbursts; behaving recklessly or in a self-destructive way; being easily startled; or having problems concentrating or sleeping.

Many people who are exposed to a traumatic event experience symptoms like those described above in the days following the event.

For a person with PTSD, symptoms last for at least a month and often persist for months and sometimes years.

Long-Term Effects of Trauma

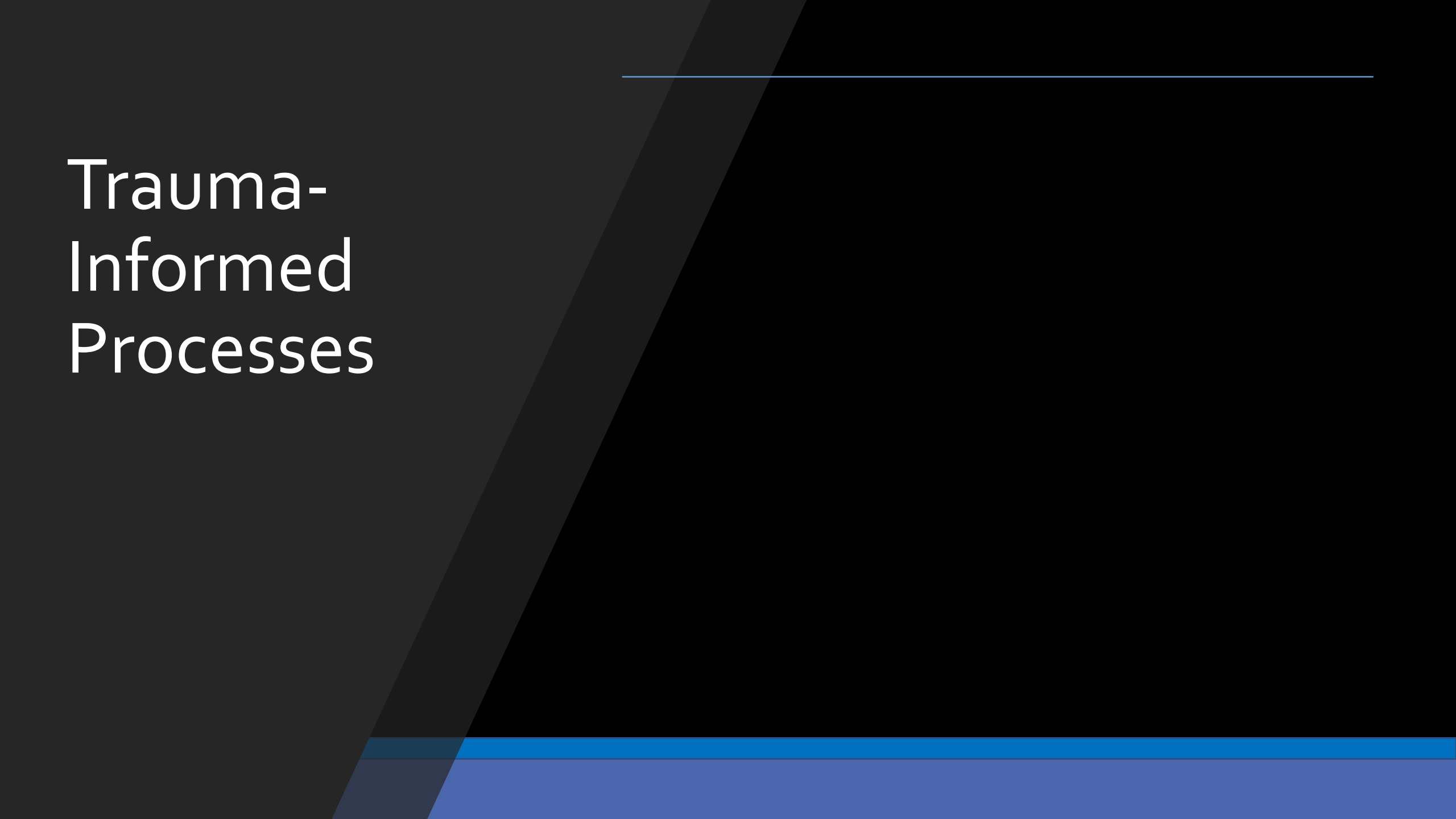
- Significantly heightened risk of short-term PTSD symptoms (within two weeks after event)
- Heightened risk of PTSD long term symptoms (up to 9 months after event)
- Approximately 70% of sexual assault survivors experience moderate to severe distress, a larger percentage than for any other violent crime.
- 38% of survivors of sexual violence experience work or school problems, which can include significant problems with a boss, coworker, or peer.

Long-Term Effects of Trauma

Even years later, traumatized people often have enormous difficulty telling other people what has happened to them. Their bodies re-experience terror, rage, and helplessness, as well as the impulse to fight or flee, but these feelings are almost impossible to articulate. Trauma by nature drives us to the edge of comprehension, cutting us off from language based on common experience or imaginable past.

- Bessel A. Van der Kolk, *The Body Keeps Score* (2014)

Trauma- Informed Processes



Intake Meetings after a traumatic event

There is evidence that waiting two days (two full sleep cycles) to conduct the intake interview may result in more coherent, detailed information because the brain will have had a chance to recover and consolidate memories during that period.

Trauma- Informed Intake Tips

Think about presentation and atmosphere. Be mindful of first impressions (in writing, on the phone, or in person).

- Where is the interview taking place?
Consider privacy, light, noise, accessibility, etc.
- How do you present yourself?

Trauma- Informed Intake Tips

Help the reporting party feel empowered in the process. Emphasize choices and give the complainant a sense of control whenever possible:

- Whether to file a formal complaint
- Whether to pursue a police report
- Whether to begin the interview at initial meeting, or have preliminary informational meeting first
- When to take breaks

Trauma- Informed Intake Tips

Be honest about the extent to which they are NOT in control in the process (e.g., circumstances in which the school would move forward against their wishes or report to external authorities)

Trauma- Informed Intake Tips

Start the meeting by having the reporting party tell their “story,” in their own words, with minimal interruptions necessary, before asking follow-up questions.

Ask open-ended questions whenever possible. Save the technical questions for the end (“Can we go back to...”).

Trauma- Informed Intake Tips

Provide detailed information and a clear explanation of your role as Title IX Coordinator. Consider sharing the Title IX Coordinator job description provided in Session 1.

Provide information in writing and go over it again in person.

- Think ahead regarding basic information so they don't have to ask (but encourage questions)
- Avoid jargon and acronyms

Trauma- Informed Interview Tips

Try to use the interviewee's words back to them but clarify meaning of any slang and vague phrases.

Don't let YOUR discomfort discourage the reporting party.

Think before you speak. Be strategic and purposeful with regard to word choice and tone.

Trauma- Informed Interview Tips

Avoid questions or comments that may appear to victim-blame.

- “Is there anyway this a misunderstanding?”
- “Why did you make that choice?”
- “Why did you wait to report this?”
- “This seems unlikely.”
- “You seem to be over-reacting.”

Helpful Links

Bostock US Supreme Court decision:

https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

CDE Transgender Resources:

https://www.cde.state.co.us/cde_english/titleix-transgenderstudents

Department of Education LGBTQ+ Resources:

<https://www2.ed.gov/about/offices/list/ocr/lgbt.html>

Helpful Links

CDE Disability Resources:

<https://www.cde.state.co.us/cdesped/accommodations>

Trauma-Informed Schools:

<https://traumaawareschools.org/impact>

Next Session September 16

Look for an email
from Karin with
Zoom Link!

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