



Association of
Title IX Administrators

March 29, 2022

VAWA Reauthorization 2022: Implications for the Title IX Field

Mikiba W. Morehead, M.A., Ed.D., Consultant, TNG

Kim Pacelli, M.Ed., J.D., Partner, TNG

Brett Sokolow, J.D., Chair of the Board, TNG;
ATIXA President



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. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law, any applicable state or local laws, and evolving federal guidance.

AGENDA

1 Summary

2 Definitions

3 Online Survey Tool for Campus Safety

4 Task Force on Sexual Violence in Education

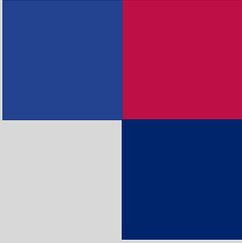
5 Grant Programs

6 State Actions to Prohibit Aiding and Abetting Sexual Misconduct in Schools

7 Additional Provisions

VAWA REAUTHORIZATION 2022 SUMMARY

- Signed into law by President Biden as part of the Omnibus appropriations package in March 2022
- Reauthorizes all current VAWA grant programs until 2027
- Increases services and support for survivors from underserved and marginalized communities, including LGBTQIA+ survivors
- Supports State, Tribal, and local government efforts to prevent and prosecute cybercrimes, including cyberstalking and the nonconsensual distribution of intimate images
- Expands prevention education for higher education students
- **Effective October 1, 2022** unless other deadlines are specified in the Act



DEFINITIONS

- Domestic Violence
- Economic Abuse
- Technological Abuse
- Abuse in Later Life
- Restorative Practices

DEFINITIONS – DOMESTIC VIOLENCE

- Amends 34 U.S.C. 12291 – Violence Against Women Act (1994)
 - Revised definition
 - Definition required in policy under Title IX
- **Domestic Violence** includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction ~~receiving grant funding and, in the case of victim services,~~ includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who—

DEFINITIONS – DOMESTIC VIOLENCE (CONT.)

- is a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
- is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- shares a child in common with the victim; or
- commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

DEFINITIONS – DOMESTIC VIOLENCE

Past Definition

- The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Current Definition

- **Domestic Violence** includes felony or misdemeanor crimes ~~of violence~~ committed by a current or former spouse or intimate partner of the victim **under the family or domestic violence laws of the jurisdiction receiving grant funding and, in the case of victim services, includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior**, by a person who—

DEFINITIONS – ECONOMIC ABUSE

- Amends 34 U.S.C. 12291 – Violence Against Women Act (1994)
 - New Definition
- **Economic Abuse**, in the context of **domestic violence [and] dating violence** means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—

DEFINITIONS – ECONOMIC ABUSE (CONT.)

- restrict a person’s access to money, assets, credit, or financial information;
- unfairly use a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or
- exert undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

DEFINITIONS – TECHNOLOGICAL ABUSE

- Amends 34 U.S.C. 12291 – Violence Against Women Act (1994)
 - New Definition
- **Technological Abuse** means an act or pattern of behavior that occurs within **domestic violence, sexual assault, dating violence or stalking** and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

DEFINITIONS – ABUSE IN LATER LIFE

- Amends 34 U.S.C. 12291 – Violence Against Women Act (1994)
 - New Definition
- **Abuse in Later Life** means –
 - neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or
 - domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and
 - does not include self-neglect.
- Unclear if this definition will impact on 34 C.F.R. §106.30 [Title IX] offenses.

DEFINITIONS – RESTORATIVE PRACTICE

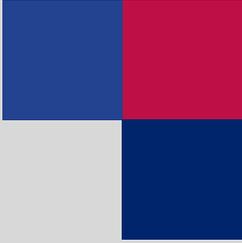
- Amends 34 U.S.C. 12291 – Violence Against Women Act (1994)
 - New Definition
- **Restorative Practice** means a practice relating to a specific harm that—
 - is community-based and unaffiliated with any civil or criminal legal process;
 - is initiated by a victim of the harm;
 - involves, on a voluntary basis and without any evidence of coercion or intimidation of any victim of the harm by any individual who committed the harm or anyone associated with any such individual—

DEFINITIONS – RESTORATIVE PRACTICE (CONT.)

- 1 or more individuals who committed the harm;
- 1 or more victims of the harm; and
- the community affected by the harm through 1 or more representatives of the community;
- shall include and has the goal of—
 - collectively seeking accountability from 1 or more individuals who committed the harm;
 - developing a written process whereby 1 or more individuals who committed the harm will take responsibility for the actions that caused harm to 1 or more victims of the harm; and
 - developing a written course of action plan—

DEFINITIONS – RESTORATIVE PRACTICE (CONT.)

- shall include and has the goal of—
 - that is responsive to the needs of 1 or more victims of the harm; and
 - upon which 1 or more victims, 1 or more individuals who committed the harm, and the community can agree; and
- is conducted in a victim services framework that protects the safety and supports the autonomy of 1 or more victims of the harm and the community.
- Under Section 303 - Grants to Combat Violent Crimes on Campuses – institutions can apply for grant funding to develop and implement restorative practices



ONLINE SURVEY TOOL FOR CAMPUS SAFETY

ONLINE SURVEY TOOL FOR CAMPUS SAFETY

- The Secretary of Education shall develop, design, and make available through a secure and accessible online portal, a **standardized online survey tool** regarding **postsecondary student** experiences with domestic violence, dating violence, sexual assault, sexual harassment, and stalking.
- The survey tool shall be fair and unbiased, be scientifically valid and reliable, meet the highest standards of survey research, and notify the participant that anonymized results of the survey may be published.
- The survey must be accessible for individuals with disabilities.

ONLINE SURVEY TOOL FOR CAMPUS SAFETY (CONT.)

- Questions shall be designed to gather information on **student** experiences with domestic violence, **dating violence, sexual assault, sexual harassment, and stalking**, including the experiences of victims of such incidents.
- Questions will include:
 - optional demographic information
 - incidence and prevalence of domestic violence, dating violence, sexual assault, **sexual harassment**, and stalking
 - students' awareness of related institutional policies and procedures

ONLINE SURVEY TOOL FOR CAMPUS SAFETY (CONT.)

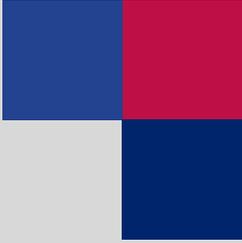
- what response was received, what actions were taken, and the outcome of the matter if a victim reported an incident to different entities
- contextual factors, such as whether force, incapacitation, or coercion was involved
- institutional affiliation of the respondent, if any
- whether a victim reported an incident to Federal, State, local, Tribal, or campus law enforcement
- the impact of domestic violence, dating violence, sexual assault, sexual harassment, and stalking on the victim's education
- the impact and effectiveness of prevention and awareness programs and complaints processes

ONLINE SURVEY TOOL FOR CAMPUS SAFETY (CONT.)

- attitudes toward sexual violence and harassment, including the willingness of individuals to intervene as a bystander
- other questions, as determined by the Secretary of Education
- An institution of higher education may request, at no cost to the institution, to add additional questions that would increase the understanding of the institution of school climate factors unique to the campuses affiliated with the institution.

ONLINE SURVEY TOOL FOR CAMPUS SAFETY (CONT.)

- Beginning not later than **one year** after the date on which the survey tool is available, and **every two years** thereafter, each institution higher education that receives Federal educational assistance shall administer the survey
- Each institution shall publish, in a manner that is readily accessible and usable by individuals, including individuals with disabilities—
 - the campus-level results of the standardized elements of the survey
 - the campus-level results of the additional elements modifying the survey by the institution, if any, on the website of the institution



TASK FORCE ON SEXUAL VIOLENCE IN EDUCATION

TASK FORCE ON SEXUAL VIOLENCE IN EDUCATION

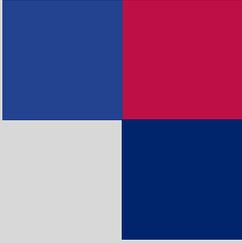
- Not later than **September 1, 2022**, the Secretary of Education, the Secretary of Health and Human Services, and the Attorney General shall establish a joint interagency task force to be known as the “Task Force on Sexual Violence in Education” that shall—
 - Provide pertinent information with respect to campus sexual violence prevention, investigations, and responses, including the creation of consistent, public complaint processes for violations of Title IX of the Education Amendments of 1972 and the Clery Act
 - Provide recommendations to educational institutions for establishing sexual assault prevention and response teams

TASK FORCE ON SEXUAL VIOLENCE IN EDUCATION (CONT.)

- Develop recommendations for educational institutions on providing survivor resources, including health care, and access to confidential advocacy and support services
- Develop recommendations in conjunction with student groups for best practices for responses to and prevention of sexual violence and dating violence for educational institutions
- Develop recommendations for educational institutions on sex education, as appropriate, training for school staff, and various equitable discipline models
- Develop recommendations on culturally responsive and inclusive approaches to supporting survivors

TASK FORCE ON SEXUAL VIOLENCE IN EDUCATION (CONT.)

- Assess the Department of Education's ability under section 902 of the Education Amendments of 1972 (20 U.S.C. 1682) to **levy intermediate fines** for **noncompliance with Title IX** of the Education Amendments of 1972 and the advisability of additional remedies for such noncompliance, in addition to the remedies already available under Federal law
- This would have the effect of making separate offenses fine-able under Title IX in what would likely be the same way that fines can be levied under the Clery Act



GRANTS

- Restorative Practices Pilot Program
- Trauma-Informed, Victim-Centered Training
- Children Exposed to Violence and Abuse
- Teen Dating Violence Awareness and Prevention
- Combating Violent Crimes on Campuses

RESTORATIVE PRACTICES PILOT PROGRAM

- Grants to develop and implement a program, or to assess best practices, for—
 - restorative practices to prevent or address domestic violence, dating violence, sexual assault, or stalking;
 - training by eligible entities, or for eligible entities, courts, or prosecutors, on restorative practices and program implementation; and
 - evaluations of a restorative practice
- Priority given to proposals that meaningfully address the needs of culturally specific or underserved populations
- Higher education institutions are eligible entities

TRAUMA-INFORMED, VICTIM-CENTERED TRAINING

- Grants for implementing **evidence-based** or promising **investigative policies and practices** to incorporate trauma-informed, victim-centered techniques designed to—
 - prevent re-traumatization of the victim
 - ensure that individuals use evidence-based practices to respond to and investigate cases of domestic violence, dating violence, sexual assault, and stalking
 - improve communication between victims and law enforcement officers in an effort to **increase the likelihood of the successful investigation and prosecution** of the reported crime in a manner that protects the victim to the greatest extent possible
 - **increase collaboration** among stakeholders who are part of the **coordinated community response** to domestic violence, dating violence, sexual assault, and stalking
 - evaluate the effectiveness of the training process and content

TRAUMA-INFORMED, VICTIM-CENTERED TRAINING (CONT.)

- Includes training for individuals who interface with victims of domestic violence, dating violence, sexual assault, and stalking, including—
 - an administrator or personnel of a school, university, or other educational program or activity (including a campus police officer or a school resource officer)
 - an emergency services or medical employee

TEEN DATING VIOLENCE AWARENESS AND PREVENTION

- Grants available to develop, maintain, or enhance programs that **change attitudes and behaviors** around the acceptability of domestic violence, dating violence, sexual assault, and stalking and **provide education and skills training to young individuals and individuals who influence young individuals**, which—
 - may include the use evidenced-based, evidence informed, or innovative strategies and practices focused on youth
 - shall include age and developmentally-appropriate education on domestic violence, dating violence, sexual assault, stalking, **sexual coercion**, and **healthy relationship skills**, in school, in the community, or in health care settings

TEEN DATING VIOLENCE AWARENESS AND PREVENTION (CONT.)

- Includes community-based collaboration and training for individuals with influence on youth, such as parents, **teachers, coaches**, healthcare providers, faith leaders, **older teens**, and mentors
- Includes education and outreach to change environmental factors contributing to domestic violence, dating violence, sexual assault, and stalking
- Applies to policy development targeted to prevention, including **school-based policies and protocols**

COMBATING VIOLENT CRIMES ON CAMPUSES

- Grants available to:
 - Develop, strengthen, and implement campus policies, protocols, and services that more effectively identify and respond to the crimes of domestic violence, dating violence, sexual assault, and stalking, including the use of technology to commit these crimes...
 - and to train **campus administrators, campus security personnel, and all participants in the resolution process**, including personnel from the Title IX coordinator's office, student conduct office, and campus disciplinary or judicial boards on such **policies, protocols, and services that promote a prompt, fair, and impartial investigation**

COMBATING VIOLENT CRIMES ON CAMPUSES (CONT.)

- Provide prevention and education programming about domestic violence, dating violence, sexual assault, and stalking, including **technological abuse** and **reproductive and sexual coercion**, that is **age-appropriate, culturally relevant**, ongoing, **delivered in multiple venues on campus, accessible, promotes respectful nonviolent behavior as a social norm**, and **engages men and boys**. Such programming should be developed in partnership or collaboratively with experts in intimate partner and sexual violence prevention and intervention.

COMBATING VIOLENT CRIMES ON CAMPUSES (CONT.)

- Train **campus health centers** and appropriate campus faculty, such as **academic advisors** or **professionals who deal with students on a daily basis**, on how to recognize and respond to domestic violence, dating violence, sexual assault, and stalking, including training health providers on how to **provide universal education to all members of the campus community** on the impacts of violence on health and unhealthy relationships and how providers can support ongoing outreach efforts.

COMBATING VIOLENT CRIMES ON CAMPUSES (CONT.)

- Train campus personnel in how to use a **victim centered, trauma-informed interview technique**, which means asking questions of a student or a campus employee who is reported to be a victim of sexual assault, domestic violence, dating violence, or stalking, in a manner that is focused on the experience of the reported victim, that does not judge or blame the reported victim for the alleged crime, and that is informed by evidence-based research on trauma response.
- **To the extent practicable, campus personnel shall allow the reported victim to participate in a recorded interview and to receive a copy of the recorded interview.**

COMBATING VIOLENT CRIMES ON CAMPUSES (CONT.)

- Grants may be used to:
 - Provide or disseminate **population-specific** print or electronic resources
 - Develop or adapt and disseminate **population-specific** strategies and projects for victims of domestic violence, dating violence, sexual assault, and stalking from **underserved populations** on campus.
- The grantee shall establish a **mandatory prevention and education program** on domestic violence, dating violence, sexual assault, and stalking for all **incoming** students.

COMBATING VIOLENT CRIMES ON CAMPUSES (CONT.)

- The grantee shall train **all participants in the resolution process**, including the campus disciplinary board, the title IX coordinator's office, and the student conduct office, to respond effectively to situations involving domestic violence, dating violence, sexual assault, or stalking.

STATE ACTIONS TO PROHIBIT AIDING AND ABETTING SEXUAL MISCONDUCT IN SCHOOLS

- Not later than 30 days after the date of enactment of this Act, the Secretary of Education shall publish in the Federal Register the findings of the Department of Education’s study, as described in the notice published in the Federal Register entitled “Agency Information Collection Activities; Comment Request; Study of State Policies to Prohibit Aiding and Abetting Sexual Misconduct in Schools” (84 Fed. Reg. 57708 (October 28, 2019)), reviewing State actions to prohibit, in accordance with section 8546 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7926), the aiding and abetting of sexual misconduct in schools.
- Previously commissioned, but on hold while reauthorization was pending.

ADDITIONAL PROVISIONS

- Grants are available for organizations to develop Statewide databases with information on where sexual assault nurse examiners are located.
- LGBT Specific Services Program
- **October 1** is designated as **Choose Respect Day**
 - All private citizens, organizations, and Federal, State, and local governmental and legislative entities are encouraged to recognize Choose Respect Day through proclamations, activities, and educational efforts in furtherance of changing the culture around the tolerance of violence against women.



Association of
Title IX Administrators

Questions?



Association of
Title IX Administrators

LIMITED LICENSE AND COPYRIGHT. By purchasing, and/or receiving, and/or using ATIXA materials, you agree to accept this limited license and become a licensee of proprietary and copyrighted ATIXA-owned materials. The licensee accepts all terms and conditions of this license and agrees to abide by all provisions. No other rights are provided, and all other rights are reserved. These materials are proprietary and are licensed to the licensee only, for its use. This license permits the licensee to use the materials personally and/or internally to the licensee's organization for training purposes, only. These materials may be used to train Title IX personnel, and thus are subject to 34 CFR Part 106.45(b)(10), requiring all training materials to be posted publicly on a website. No public display, sharing, or publication of these materials by a licensee/purchaser is permitted by ATIXA. You are not authorized to copy or adapt these materials without explicit written permission from ATIXA. No one may remove this license language from any version of ATIXA materials. Licensees will receive a link to their materials from ATIXA. That link, and that link only, may be posted to the licensee's website for purposes of permitting public access of the materials for review/inspection, only. Should any licensee post or permit someone to post these materials to a public website outside of the authorized materials link, ATIXA will send a letter instructing the licensee to immediately remove the content from the public website upon penalty of copyright violation. These materials may not be used for any commercial purpose except by ATIXA.