

# Time with IX & Talking BITs: Implementing K-12 Safety Plans, Student and Employee Support Systems

Kim Pacelli, M.Ed., J.D.; Partner, TNG; ATIXA Advisory Board

Linda Abbott, M.S., LMHC; Consultant, TNG; NABITA Advisory Board

# Today's Presenters



**Linda Abbott, L.M.H.C.**  
Consultant, TNG



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



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.

# Agenda



Overlap of TIX and BTAM



Emergency Removal/Administrative Leave



Supportive Measures and Safety Considerations

# BTAM and Title IX Overlap

# BTAM and IX: Process Differences

## Title IX

- Responsible for addressing sex/gender-based discrimination
- Legal requirements to **investigate** reported incidents, **stop** the discrimination, **prevent** its recurrence, and **remedy** the effects
- Expertise in investigations, due process, interim measures, etc., but not necessarily in violence risk assessment, prevention, and intervention

## Behavioral Threat Assessment and Management (BTAM)

- Responsible for responding to **all** reported concerning behavior
- **Receive** all reports of concern, **assess** the risk for future concern, and **deploy** interventions to mitigate the risk
- Expertise in responding holistically to student needs and are trained in identifying, assessing, and responding to indicators of problematic or violent behavior but not necessarily in investigations, hearings, and due process.

# Mutual Referrals and Overlap

## Title IX to BTAM/CM

Title IX referring incident(s) to BTAM that do not fall within their jurisdiction or do not rise to the level of a VRA

## Objective VRA

BTAM member conducting a VRA for individuals who are engaging in threats or acts of violence



## BTAM/CM to Title IX

BTAM referring incident(s) to Title IX involving parties being targeted

## Supportive Measures

BTAM and Title IX providing supportive measures to those participating in the Title IX process

# Mutual Referrals and Overlap



FERPA ALLOWS YOU  
TO DO THIS

# Overlap of Title IX and BTAM/CM

## Title IX Reports

Reports/Complaints involving incidents of aggression, threats of violence, violence, harm to self, stalking, hazing, vandalism, substance abuse.

For example:

- Complainant experiences hallucinations that cause them to believe they are being stalked
- Respondent has history of suicidal ideation
- Employee's ex-partner repeatedly calls the workplace and makes threats to employee and coworkers
- Need for VRA for Emergency Removal consideration



## BTAM/CM Cases

Referrals with components of gender-based violence necessitating Title IX-based response.

For example:

- Multiple women report that a male is "making them uncomfortable" and behaving strangely
- Student notifies SRO they recently obtained a protection order for their estranged partner
- Student has been repeatedly late to class and teacher notices their partner is physically holding them back in the hall and not allowing them to arrive on time

# Information Title IX Should Share With BTAM

- Reports of threats or engagement in violence, stalking, harassment, etc.
- Concerns discovered related to student's function, well-being, needs for support, etc.
- Supportive Measures
  - No-contact orders
  - Housing assignments and restrictions
  - Classroom or class work modifications
  - Restrictions to areas of campus/specific activities
  - Interim suspensions
- Informal/formal resolutions, sanctions, remedies, pending criminal investigations

# Information BTAM Should Share With Title IX

- Reports that contain components of sex/gender-based harassment or discrimination
- For shared reports, the initial referral information and other collateral information gathered
- For shared reports, the assessment results related to Risk Rubric, SIVRA, or Violence Risk Assessment of the Written Word (VRAWW)
- Intervention and support plan
  - Case management action
  - Referrals that are made
  - Academic supports
  - Housing, food, financial support
  - BTAM's plan to follow up

# Emergency Removal Under Title IX

# Administrative Leave

- May remove a non-student employee Respondent using existing administrative leave procedures
- A lower bar than Emergency Removal of a student Respondent



# Emergency Removal

## Emergency Removal:

- Imposed upon student Respondents on an emergency basis only
- Individualized safety and risk analysis
  - Immediate threat exists to the physical health or safety of any student or other individual
  - The threat arises from the allegations of sexual harassment
- Respondent entitled to immediate notice and opportunity to challenge the determination



# Emergency Removal

## Consider:

- Culture regarding suspensions for other student discipline issues must adapt to Title IX
  - School-based administrators act without consulting TIXC
  - Demands to remove Respondent when not indicated by safety and risk analysis
- Manifestation Determination application when needed
- Emergency Removal should not create undue delay in the Title IX Resolution Process
- Removal can only continue for as long as an emergency continues to exist

# Assessment vs. Treatment

## Assessment

- Short-term (1 – 2 meetings)
- May be conducted by a non-clinical or clinical provider
- Used to determine risk and protective factors
- Engagement may be voluntary or mandated
- Information/results are shared with referral source

## Treatment

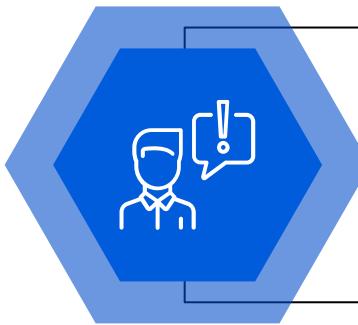
- Longer-term (about 5+ meetings)
- Must be conducted by a licensed provider
- Used to address diagnosis and matters related to a mental health condition
- Engagement is voluntary in nature (unless court ordered)
- Information/progress are privileged in nature

**Reminder: BTAM teams can mandate assessments!**

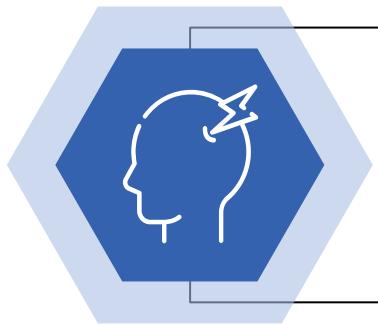
# Types of Assessments



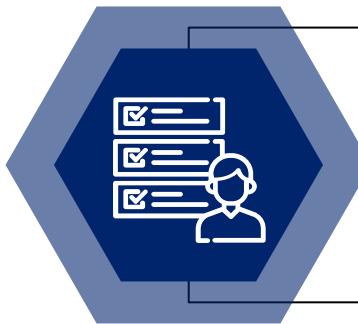
General Risk  
Assessment



Threat Assessment



Psychological  
Assessment



Violence Risk  
Assessment

# Objective Violence Risk Assessment (VRA)

- If there is a need to initiate a VRA as part of the Emergency Removal process, the TIXC should mandate a VRA and notify the Respondent in writing of the obligation to comply promptly.
- TIXC should notify and provide documentation to the BTAM team regarding the incident(s) and/or behavior(s) that required a VRA referral.
- If the Respondent is not inclined to fully cooperate with the VRA, the Respondent should face discipline for failure to comply.

# Violence Risk Assessment Tools



- **10x** NABITA Risk Rubric
- **25x** Violence Risk Assessment of the Written Word (VRAWW)
- **50x** Structured Interview for Violence Risk Assessment (SIVRA) and Non-Clinical Assessment of Suicide (NAS)

# SIVRA

## Structured Interview for Violence Risk Assessment

1. Communicated a Threat
2. Target
3. Access to Means
4. Planning Behaviors
5. Grievances
6. Hate-Based or Ideological, Hardened Beliefs
7. Interest in Violence, Violent Content, or Causing Harm
8. Researched Past Attacks
9. Suicidality
10. Disconnection from Reality
11. Substance Use
12. Personality Traits
13. Noticeable Behavior Change
14. Access to and Experience with Firearms
15. Home Life Experiences
16. Social Experiences
17. Work/School Experiences
18. Personal or General Stressors
19. Criminal History
20. Disciplinary History
21. Violent Behavior Not Involving Criminal or Disciplinary Action

# **Support Measures and Safety Considerations**

# Supportive Measures

**Provided to parties following evaluation of a report/complaint:**

- Non-disciplinary, non-punitive
- Individualized
- Restore or preserve equal access
- Without **unreasonably** burdening other party
- Protect safety of parties or environment, or deter sex-based harassment
- At no cost to the party
- Consult with IEP/504 administrators when appropriate
- If not provided, document the rationale for refusal

# Supportive Measures

Counseling/  
Health Services

Employee  
Assistance  
Program

Visa and  
Immigration  
Assistance

Community  
Education

Alternate  
Housing

Alternate Work  
Arrangements

Safety Planning

Safety Escorts

Transportation  
Assistance

Contact  
Limitations

Academic  
Support

Trespass Orders

Emergency  
Notifications

Increased  
Security

# Safety Considerations

- Share agreed upon, written supportive measures with SRO/Police/Safety for immediate safety concerns
- School-issued no contact orders are typically mutual, depending on situation
- Understand school's responsibility to honor court-issued protective orders
- Examine the difference between feeling unsafe and being unsafe or having a credible threat to personal safety
- School's jurisdiction over the Respondent will dictate some of the available supportive measures

# Safety Considerations

- TIXC can work with the parties to create a comprehensive safety plan
  - Predict and provide coaching regarding contact between parties, witnesses, and third parties (e.g., shared friends, common areas, parents/guardians)
  - Monitoring and supervision
- Special consideration should be given to situations involving stalking, dating, or domestic violence
- Be aware of institutional or community safe housing and how to access such facilities



# Questions?



Association of  
Title IX Administrators

## **ALL ATIXA PROPRIETARY TRAINING MATERIALS ARE COVERED BY THE FOLLOWING LIMITED LICENSE AND COPYRIGHT.**

By purchasing, 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 their use. This license permits the licensee to use the materials personally and/or internally to the licensee's organization for training purposes, only. If these materials are used to train Title IX personnel, they are subject to 34 CFR Part 106.45(b)(10), requiring all training materials to be publicly posted on a Recipient's website. If you have lawfully obtained ATIXA materials by registering for an ATIXA training, you are licensed to use the materials provided for that training. Licensees may download and post a PDF version of training materials for their completed training to their organizational website to comply with federal regulations.

You are not authorized to copy or adapt these materials without ATIXA's explicit written permission. 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, or links to the materials on that page only, may be posted to the licensee's website for purposes of permitting public access to the materials for review/inspection, only. Should any non-licensee post these materials to a public website, 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.