



Association of
Title IX Administrators

Establishing a Violence Risk Assessment Process

ATIXA Workshop Endorsed by the
National Association for Behavioral Intervention and Threat Assessment (NABITA)

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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.

Course Introduction



The primary focus of this course is to help practitioners implement a process to determine the appropriate times a Violence Risk Assessment is warranted, who should execute the Violence Risk Assessment, and what to do next.



Title IX regulations mandate an individualized safety or risk analysis if an institution is going to limit educational access.



Our goal is to provide a comprehensive framework to establish and implement a Violence Risk Assessment as part of the Title IX Process.

Content Advisory

The content and discussion in this training will necessarily engage with sex- and gender-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 Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

Introduction

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Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)



Review: Applicability

- Education program or activity in the United States
- Downstream effects of external misconduct
- School/District has disciplinary authority over the context of the behavior
- Identity of the Complainant
- Applies to both students and employees
- Per the 2024 preamble, OCR will consider almost all off-campus sexual misconduct by school/district employees toward students to be within the school program/activity



Review: Sex Discrimination

- Discrimination on the basis of sex includes:
 - Sex Stereotypes
 - Sex Characteristics
 - Pregnancy or Related Conditions
 - Sexual Orientation
 - Gender Identity
- “More than *de minimis* harm”
- Sex-Based Harassment



Review:

Sex-Based Harassment

- Subset of sex discrimination
- Includes (the “Big Six” offenses):
 - Quid Pro Quo (QPQ)
 - Hostile Environment Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- No consent definition provided
 - Develop or adopt one for the school/district



Review: Sexual Assault

- **Sexual Assault:** An offense classified as a forcible or nonforcible sex offense under the Federal Bureau of Investigations' Uniform Crime Reporting system
 - Must include the six sub-offenses:
 - Rape, involves a lack of consent
 - Sexual Assault with an Object, involves a lack of consent
 - Sodomy, involves a lack of consent
 - Fondling, involves a lack of consent
 - Incest, irrespective of consent
 - Statutory Rape, irrespective of consent

Emergency Removal Rule:

“Emergency removal, requires a Recipient to undertake an individualized safety and risk analysis to determine whether an imminent and serious threat to the health or safety of a Complainant, or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal.”

§ 106.44 (h), Final Rule pg. 1537

Emergency Removals

- Emergency Removals provide the school/institution with the appropriate flexibility to respond to reports of sex discrimination, 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 sex discrimination

Emergency Removals

- When considering an Emergency Removal for allegations of sex discrimination, Title IX regulations mandate an **individualized safety and risk analysis**
 - To determine if an **imminent and serious threat**
 - to the health or safety
 - of a Complainant, or any students, employees, or other persons
- **Imminent threat** may not be active or immediate, but are likely to occur soon
- **Serious threat** includes non-physical threats
 - Non-physical threats can be assessed as objectively as physical threats
- An intentionally high standard, Emergency Removal should be rare
- 2024 Regulations do not specify elements of an individualized safety and risk analysis

Emergency Removal

- A student Respondent may be removed from the education program or activity on a **limited emergency basis, only after:**
 - A completed individualized safety and risk analysis
 - Determination of an imminent and serious threat to the health or safety
 - Respondent has been provided notice and an opportunity to challenge the decision immediately following a removal
- All rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act must be upheld
- The Emergency Removal provision cannot be used to permanently remove a Respondent from its education program or activity

Employee Administrative Leave

- The Emergency Removal process does not apply to employees
- Non-student employee Respondent can be placed on administrative leave during the Title IX grievance process
 - Follow school or institutional policy
- All rights provided under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act must be upheld



Emergency Removal Behaviors

Behaviors that may necessitate a determination about Emergency Removal include all forms of sex discrimination, but most often involve:

Sexual Assault

Domestic Violence

Dating Violence

Stalking

Behavioral Intervention Team Overview

Behavioral Intervention Teams (BITs)

- This presentation refers to BITs and BIT/Care Teams as a catch all for those groups who coordinate and perform behavioral intervention-related work
 - K-12 schools or others may have a different name and/or function may be incorporated into another structure
- BIT/Care Teams are school/institutional officials who meet regularly to:
 - Gather and review information about individuals in the school/institutional community
 - Assess level of risk using an objective tool
 - Deploy support, resources, and interventions
- BIT/Care Teams address far more than sex- or gender-based incidents, but may be a resource to assist with an individualized safety and risk analysis for such incidents

BIT/Care Team Scope

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



Designated BIT/Care Team Officials

- The BIT/Care Team is comprised of school/institutional officials
 - With training and authority
 - To gather data, employ objective risk rubrics, and develop individualized interventions to mitigate risk
- Such officials typically include:
 - School/Institutional leadership (e.g., Dean of Students, VPSA, Principal)
 - Mental health counselor (e.g., Director of Counseling, Social Worker)
 - Student conduct (e.g., Director of Conduct, Vice Principal)
 - Safety/Law enforcement (e.g., Campus Safety, SRO)

BIT/Care Team Process



BIT/Care Team Process: Gather and Assess

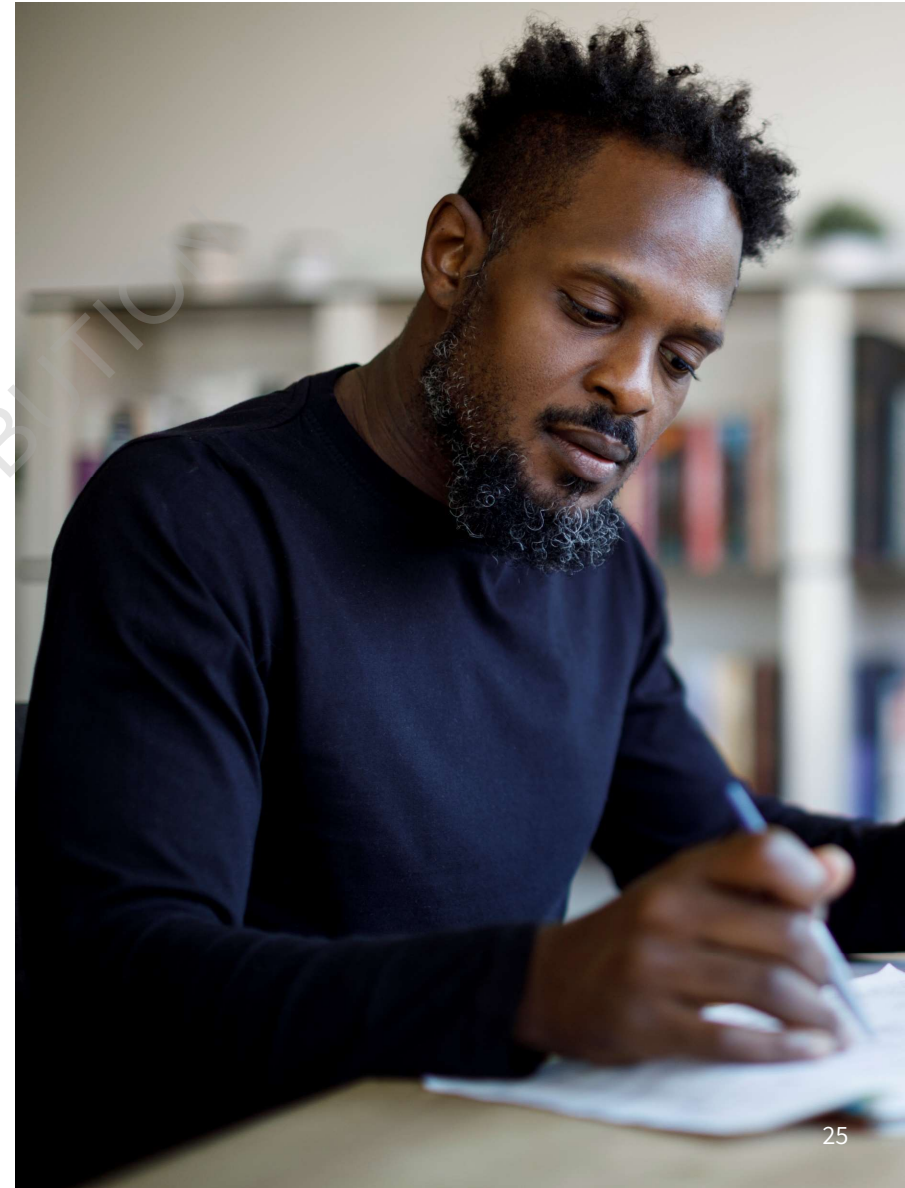
- Members of the school/institutional community refer individuals to the BIT/Care Team when there is a concern for the safety and/or well-being of the individual
- BIT/Care Teams gather data including information related to the individual referred, including any known incidents, history of behavior, etc.
- Using the data gathered, the BIT/Care Team analyzes all known information using an objective tool to determine level of risk of harm to self or others
 - Examples of objective tools:
 - NABITA Risk Rubric
 - SIVRA 35

BIT/Care Team Process: Interventions

- The BIT/Care Team deploys interventions, based on the data obtained from a thorough and objective analysis of all available information
- BIT/Care Team interventions:
 - Are tailored to the severity of risk
 - Use a range of options, including:
 - Check-ins
 - Case Management
 - Parental/Guardian Contact
 - Mandated Assessments
 - Involuntary Leaves
- BIT/Care Teams engage in ongoing follow-up and connection to resource (as needed)

Title IX on the BIT/Care Team

- ATIXA **recommends** that TIXC or a Deputy serve as a liaison with the BIT/Care Team
 - Invited to meetings when relevant individuals are on the agenda
- TIXC should be well-trained in BIT/Care Team philosophy, procedure, and operations
- BIT/Care Team members should be well-trained in scope of Title IX, Title IX response to reports, and how to file a report



BIT/Care Team and Title IX Overlap

Distinguishing Title IX and BIT/Care Team

Title IX Team

- Addresses sex discrimination and sex-based harassment
- Required to **stop** discrimination, **prevent** its recurrence, and **remedy** the effects
- Responds to reports, notice, or complaints of sex discrimination and sex-based harassment
- Expertise in evaluating reports/complaints, investigations, due process, interim measures, making findings, issuing sanctions, etc.

Behavioral Intervention Team

- Responds to **all** types of concerning behavior
- **Gathers** information, **assesses** the risk for future concern, and **deploys** interventions to manage/mitigate the risk
- Expertise in responding holistically to student needs, trained in identifying, assessing, and responding to indicators of problematic or violent behavior
- Not disciplinary in nature

Overlap of Title IX and BIT/Care Team

Title IX Reports

Referrals involving components of sex- and gender-based violence necessitating Title IX response

For example:

- Employee notifies campus police that they recently obtained an order of protection from their estranged spouse
- Student employee has been frequently late or absent from work and has visible bruising on multiple occasions

BIT/Care Team Referrals

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

For example:

Respondent has history of suicidal ideation
Employee's ex-partner repeatedly calls the workplace and makes threats to employee and coworkers

Mutual Referrals and Overlap

Title IX to BIT/Care Team

Title IX may refer incident(s) to BIT/Care Team that do not fall within Title IX jurisdiction or do not rise to the level of a VRA

Objective VRA

A member of the BIT/Care Team may conduct a VRA for individuals that are engaging in threats or acts of violence



BIT/Care Team to Title IX

BIT/Care Team may refer incident(s) to Title IX that involve parties being targeted

Supportive Measures

BIT/Care Team and Title IX may provide supportive measures to those participating in the Title IX process

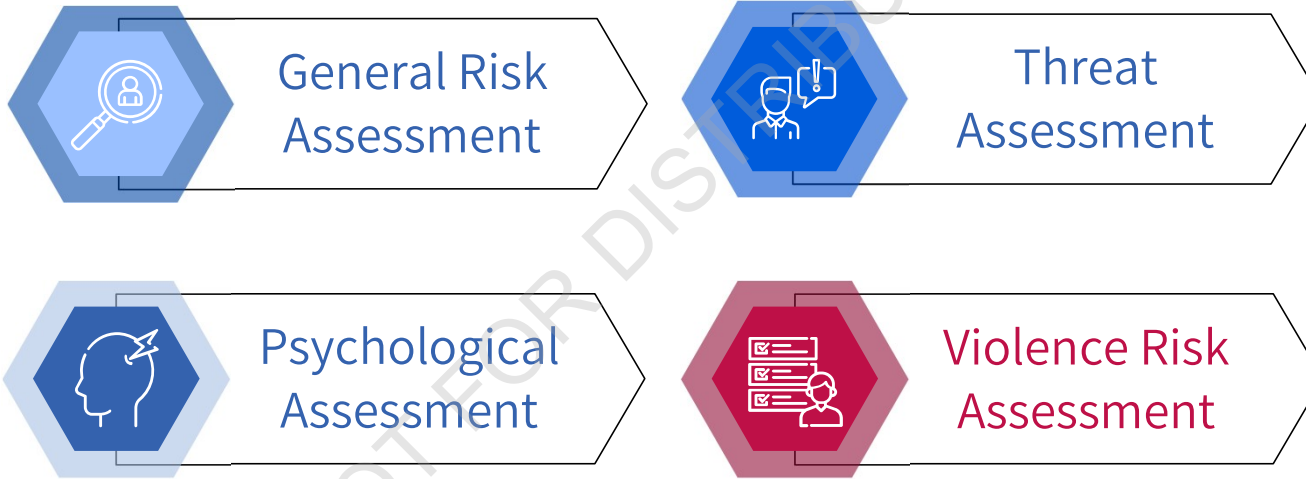
Information Sharing

Title IX and BIT/Care Team may share information in a streamlined and timely manner:

- Family Educational Rights and Privacy Act (FERPA): legitimate educational interest
- Supportive Measures
 - No contact orders
 - Housing assignments and restrictions
 - Classroom or classwork modifications
 - Restrictions to areas of campus/specific activities
 - Emergency Removals
- Commonly shared information:
 - Pending VRA process and report
 - Pending investigations, informal resolutions, hearing process
 - Outcomes, sanctions, and remedies
 - Pending criminal investigations

Violence Risk Assessment (VRA) Overview

Types of Assessments

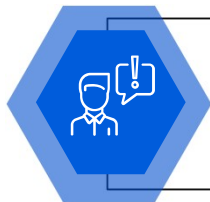


Types of Assessments



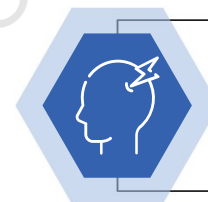
General Risk Assessment

- 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
- Focuses on details of threat, actionability, and crisis response
- Often limited to determining likelihood of violence as related to specific threat



Psychological Assessment

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

VRA

- Helps determine potential violence or dangerousness toward a person, group, or system
- Explores various risk factors and protective elements in comprehensive manner
- Not predictive, but an estimate of the factors that make it more or less likely the individual will engage in violence



**Violence Risk
Assessment**

Administering a VRA

- No specific position or educational degree required
 - Should not be the TIXC
 - 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

Objective Tool

- An objective tool allows the assessor to rely on standardized, research-based risk factors
- Mitigates bias and subjectivity
- Allows for more consistent and supportable outcomes
- Examples of Objective Tools:
 - NABITA Risk Rubric
 - SIVRA-35

VRA Referral Protocol

Jurisdiction Determination

- TIXC determines if Title IX jurisdiction applies
 - If Title IX applies, TIXC will need to determine if the alleged behavior may warrant the need for Emergency Removal
- If the alleged behavior is not within Title IX jurisdiction, it could still violate school/institutional policy and be addressed under:
 - School/institutional harassment/discrimination policies
 - Student handbook/conduct policies
 - Technology/Acceptable use policies
 - Employee handbook/conduct policies
 - Professionalism standards

When Title IX Applies

- TIXC determines if the alleged behavior may meet the standard for Emergency Removal:
 - Does the alleged behavior pose an imminent and serious threat to the health and safety of the Complainant, any student, or other person?
 - As noted previously, this is a high threshold
 - To determine if an Emergency Removal is necessary, TIXC should evaluate the known information, including risk factors, using an objective referral protocol
- Schools/Institutions should consider what referral protocol will be implemented to ensure a thorough review, maintaining consistency between complaints

When Title IX Does Not Apply or Emergency Removal is Not Under Consideration

- If Title IX does not apply, TIXC should refer the report/complaint to the appropriate school/institutional process or office
- Reports/Complaints that do not rise to the level of a referral for a VRA, the School/Institution should still take steps to:
 - **Provide support and resources** to the Complainant
 - Address any “downstream effects”
 - **Determine if patterns or institutional variables contributed** to the alleged incident(s)
 - **Take what action it can** (e.g., trespass the person)
- The BIT/Care Team process should still be engaged to address the behavior/impact

VRA Referral

The presence of one or more of the following risk factors would likely necessitate a VRA:

- The incident(s) included physical violence resulting in injuries (e.g., strangulation, asphyxiation, punching, kicking)
- Threats to kill the Complainant or others
- Threats of future physical violence or retaliation that would result in physical harm to the Complainant or those close to the Complainant (e.g., strangulation, asphyxiation, punching, kicking)
- The incident(s) involved the use of a lethal weapon
- Allegations of ongoing stalking behaviors

ATIXA Title IX VRA Referral Protocol

Dating Violence (excerpt):

	Points	Description
<input type="checkbox"/>	1 Point	The reported incident(s) is recent
<input type="checkbox"/>	1 Point	The Respondent has access to weapons
<input type="checkbox"/>	2 Points	The reported behavior has escalated and/or increased in severity and/or frequency
<input type="checkbox"/>	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-immediate threat; refer to BIT/Care Team
- **4+ total points** = Potential immediate threat; initiate VRA as part of Emergency Removal process

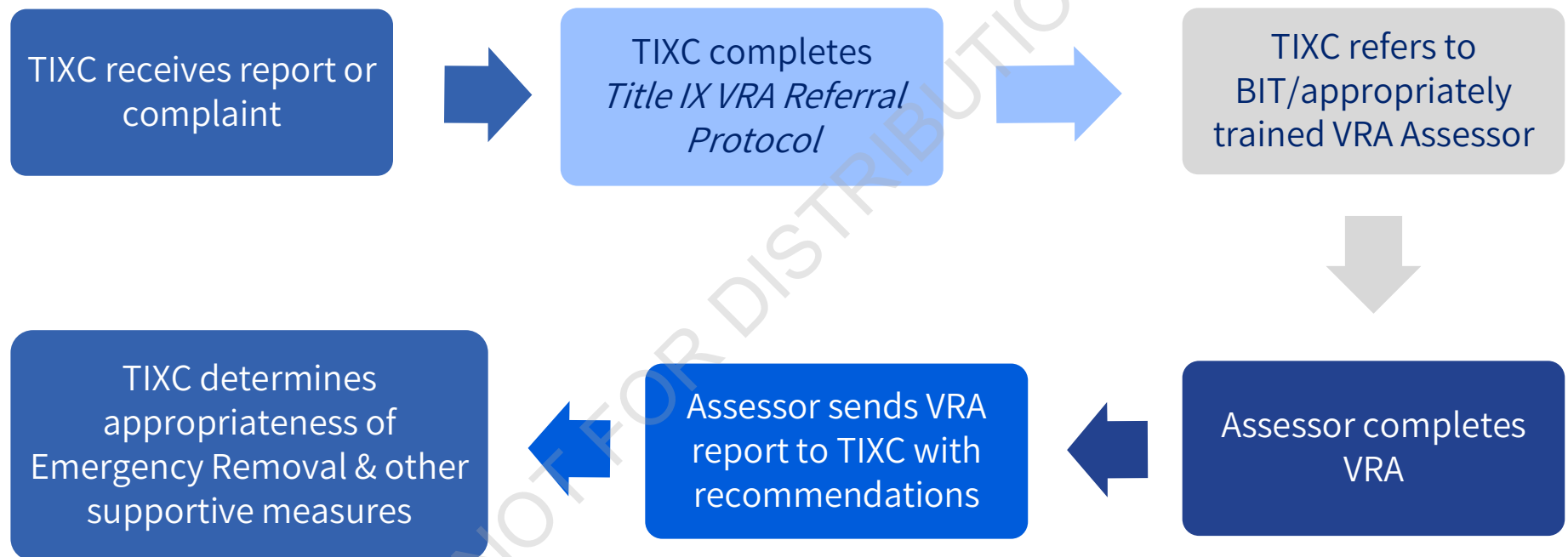
VRA Process

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VRA Notification Process

- If there is a need to initiate a VRA as part of the Emergency Removal process, **ATIXA recommends** the following steps:
- TIXC mandates a VRA of the Respondent
 - Written notification provided to Respondent including:
 - Obligation to comply
 - Rights of Respondent
- TIXC notifies the BIT or designated VRA Assessor and provides documentation regarding the incident(s) and/or behavior(s) that required a VRA referral
- If the Respondent does not fully cooperate with the VRA, the Respondent is referred to the student conduct process

Title IX VRA Process



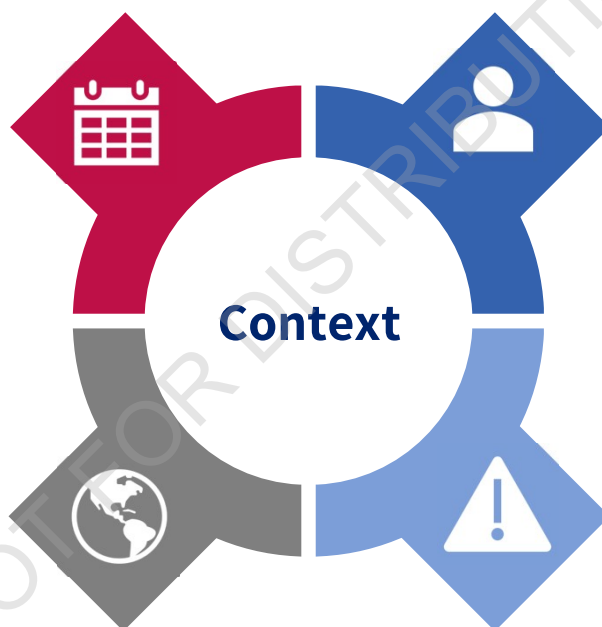
VRA Elements

Precipitating Events

What might have precipitated the behavior or threat?

Cultural

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 Process Considerations

- What VRA tool or protocol will you use to complete an individualized risk assessment?
 - If deploying an already made tool:
 - Was it developed using current research?
 - Has it been validated?
 - Is it reliable?
- Who will you designate to conduct the VRA?
 - What training should they obtain or have?
 - What is their availability to complete a VRA in a timely manner?

SIVRA-35

NABITA Assessment Tool 

1. Direct threat to person/place/system
2. Has tools, plans, weapons, and/or schematics
3. Fantasy rehearsal
4. Action plan or timeframe to attack
5. Fixated/focused on target
6. Grudges/injustice collector
7. Pattern of negative writing/art
8. Leakage/warning of potential attack
9. Suicidal thoughts with plan.
10. Persecution/victim mindset
11. Last act behaviors
12. Confused thoughts/hallucinations
13. Hardened point of view
14. No options/hopeless/desperate
15. Drawn or pulled to action
16. Recent break-up or stalking
17. Defensive/overly casual interview

SIVRA-35

NABITA Assessment Tool 

- 18. Little remorse or bravado
- 19. Weapons access or training
- 20. Glorifies/studies violence
- 21. Disingenuous/externalize blame
- 22. Acts superior/lacks empathy
- 23. History of impulsive risk-taking
- 24. History of conflict (authority/work)
- 25. Extreme poor frustration tolerance
- 26. Trouble connecting/lacks trust
- 27. Substance abuse/acting out
- 28. Serious mental health Issues
- 29. If serious MH issue, not in care
- 30. Objectification of others
- 31. Sense of being owed
- 32. Oppositional thoughts/behaviors
- 33. Evaporating social inhibitors
- 34. Overwhelmed from loss or stress
- 35. Drastic behavior change

VRA Results

- VRA results (or scores) should be compiled into a comprehensive VRA report that is given to the TIXC at the conclusion of the assessment
- VRA report guides the Title IX and/or BIT interventions
 - Should highlight the risk and protective factors
 - **Should clearly articulate if the presence of an imminent and serious threat exists**(typically based on objective scoring)
- **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

VRA Results Example

Risk/Protective Factor	Presence (Yes/No/Partially)	Notes
1. Direct threat to person/place/system	Yes	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.
3. Fantasy rehearsal	No	The interviewee reports no drawings, writings, verbal communications or thoughts about harming others. No additional information collected indicates the presence of such material.
9. Suicidal thoughts with plan	Partially	The interviewee reports passive suicide ideation, but has not plans, intention, or means.

Emergency Removal Notification and Challenge

Emergency Removal Notification

- If at the completion of an individualized safety and risk analysis it is determined that an imminent and serious threat to the health or safety of a Complainant, or any students, employees, or other persons justifies removal:
 - The school/institution must provide the Respondent with:
 - **Notice of the Emergency Removal determination**
(ATIXA recommends this be in writing)
 - **An opportunity to challenge the decision immediately following the removal**
- The Emergency Removal provision cannot be construed to modify any rights under the Individuals with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990

Emergency Removal Challenges

- **Respondent must be allowed to challenge** the Emergency Removal decision
- School/Institution may allow the Complainant to challenge the parameters of an Emergency Removal
- 2024 Regulations do not specify level of process a school/institution must provide to challenge an Emergency Removal
 - School/Institution will need to determine who will hear and decide challenges to an Emergency Removal while avoiding conflicts of interest for those involved in the investigation and/or resolution process
- Often, challenges will take the form of a “show cause meeting” or a review of documents/written statements
- **This review is not a hearing on the merits of the allegation(s)**, but rather an administrative process to determine solely whether the Emergency Removal and/or supportive measures are appropriate

Considerations When Results are Challenged

- If a challenge meeting is allowed by the school/institution policy:
 - Respondents and Complainants may be accompanied by an Advisor of their choice
 - For K-12 this only applies if Advisors are allowed by school/district policy
 - For K-12 parent/guardian may be present
- The administrator designated to make a determination about an Emergency Removal challenge should have sole discretion to implement or stay the emergency removal/supportive measures and to determine the conditions and duration
- Violation of an emergency removal/supportive measures under school/institutional policy would be grounds for discipline within the student conduct processes, which may include expulsion

Challenge Outcome Notice

- Written notice of the outcome of challenge should be provided with rationale
- The Respondent and Complainant (if applicable) should not assume or act as though any modifications have been made to the terms of the Emergency Removal until such notice is received
- Notification of the outcome is final and cannot be appealed

Questions?

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