



# Legal Assistance for Crime Victims

An OVC Training and Technical Assistance Initiative

## Title IX: What Victims Should Know About Their Rights

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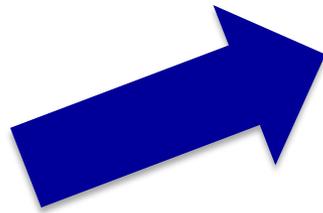
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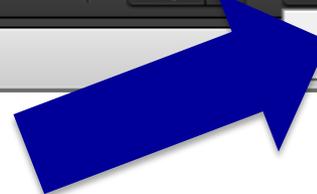
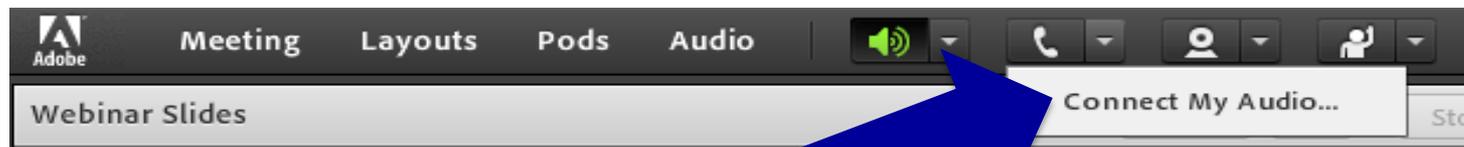
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# Overview of Adobe Connect



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The screenshot displays the Adobe Connect interface. At the top, there is a navigation bar with 'Meeting', 'Layouts', 'Pods', and 'Audio' menus, along with icons for audio, video, and user management. The main area is a grey textured space with a 'Share My Screen' button in the center, accompanied by icons for a monitor, documents, and a mouse. On the right side, there is a sidebar with two main sections: 'Attendees (1)' and 'Chat (Everyone)'. The 'Attendees' section shows a list of participants, including 'Alexandra Barry'. The 'Chat' section shows a message: 'The chat history has been cleared'. Two large blue arrows point from the main area towards the 'Attendees' and 'Chat' sections, highlighting their location.

# Who is the VRLC?



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**The VRLC will not be providing legal advice and encourages all organizations to direct legal questions to appropriate legal counsel.**

# Title IX Overview

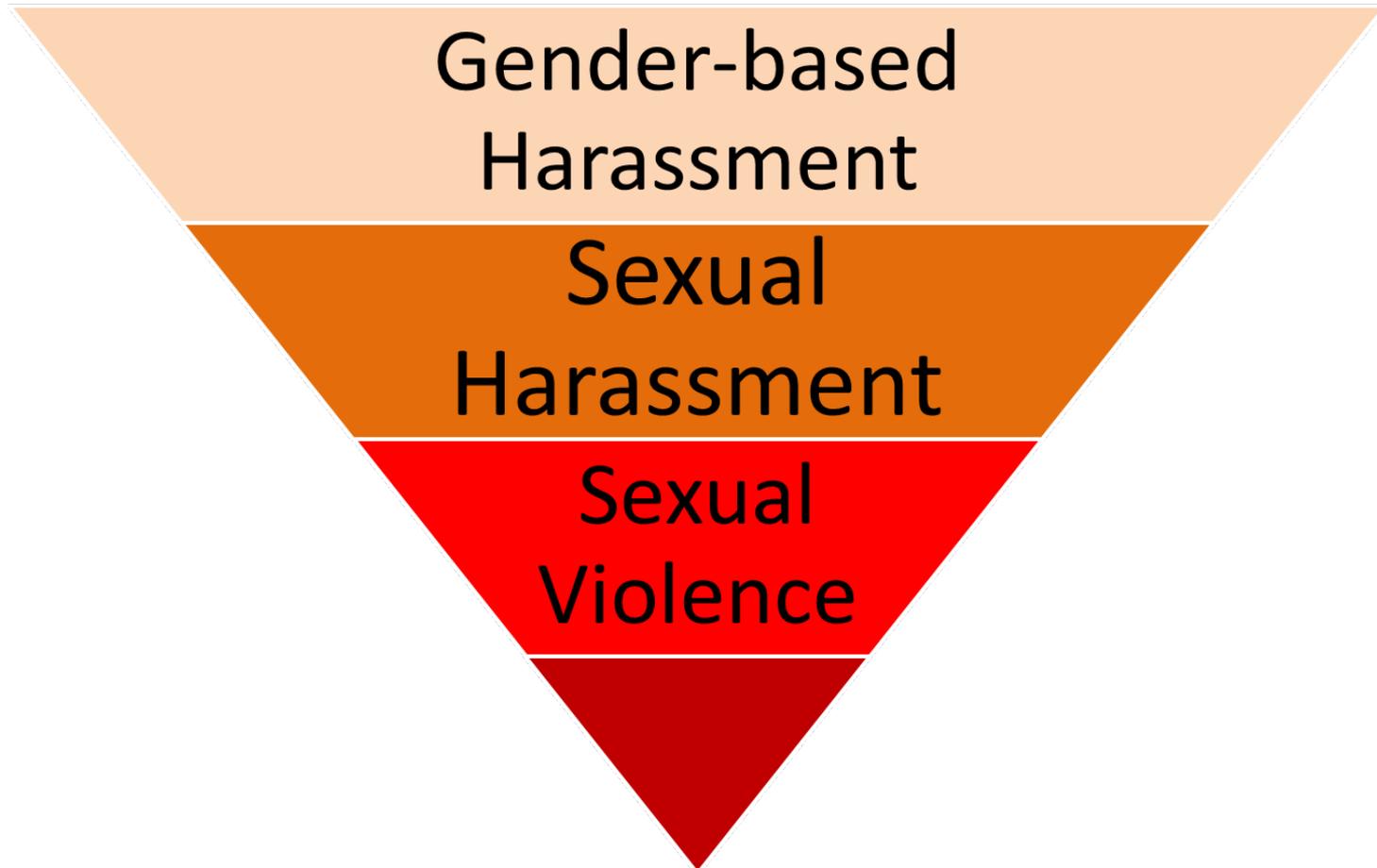


## Who is required to comply with Title IX?

- All public & private educational institutions that receive federal funds.
  - What is *receive federal funds* under Title IX?
    - Qualifying federal financial assistance can be in the form of: an award or grant of money; use of rent of federal land or property; and federal training.
    - Federal financial assistance can also be received indirectly
      - Ex: Accepting students who receive federal financial aid (FAFSA)

## What does Title IX say?

- General mandate: Prohibits recipients of federal financial assistance from discriminating on the basis of sex in education programs or activities. ***Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.***



## How does Title IX protect students?

- Protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school.
- Also protects students who may have been sexually harassed off school grounds, outside a school's education program or activity, if the harasser was a fellow student.

**Advocacy Tip:** Remember that Title IX applies to K-12 schools, as well as colleges. Keep this in mind when working with minor survivors.

# What is required of schools even before a report of sexual violence?



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- Publish a notice of non-discrimination
- Designate employee/s to coordinate Title IX compliance
- Adopt and publish grievance procedures

# A school receives a report of sexual violence...Now what?



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The school must inform the survivor of their options, including:

- Medical treatment
- Counseling & mental health services\*
- Disciplinary complaint
- Criminal complaint/Police report
- Options to avoid contact with perpetrator and to change living and academic situations\*

*\*Also required under Clery's Victims' Bill of Rights*

# Title IX & the Grievance Process: FAQs



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## ***How long should a grievance process be?***

- The process should be “reasonably prompt” and the DCL and FAQs offers 60 days as a general guideline for the length of a typical investigation.

## ***What is the standard of proof?***

- Preponderance of the evidence.

## ***Can a school use both formal and informal processes?***

- Yes, but mediation should not be used to resolve a sexual assault complaint. Also, the parties must be notified that they have the right to end the informal process at any time and begin the formal process.

# Title IX & Law Enforcement: FAQs



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## ***Is it sufficient that the local police investigated the sexual assault?***

No, the school's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to conduct an "adequate, reliable and impartial investigation of complaints."

## ***Does Title IX require schools to notify local police if a sexual assault is reported?***

No. Generally, the decision to file a criminal complaint will be up to the survivor. "Title IX does not require a school to report alleged incidents of sexual violence to law enforcement, but a school may have reporting obligations under state, local, or other federal laws." (FAQs page 27)

## ***If the police determine that there is insufficient evidence to proceed criminally, can a school still find an accused student "responsible"?***

Yes. There could be sexual harassment under Title IX even if there is insufficient evidence of a criminal violation.

# Title IX & Law Enforcement FAQs Continued



***Local police asked the victim's school to wait on the Title IX investigation until they completed theirs. Is that ok?***

- Yes, if the delay is temporary. Most LE investigations will conclude after 7-10 days.

***Is it okay for a school to discourage victims from filing a police report?***

- No, a school cannot dissuade a victim from filing a criminal complaint. Victims should be notified of all their reporting options.



# What Rights Do Sexual Violence Victims Have Under Title IX?



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# Empowering Survivors to Know their Rights

[www.victimrights.org](http://www.victimrights.org)

"Know Your Rights: Understanding Title IX for Campus Sexual  
Violence Victims"



***Disclosure vs. Report:  
How does the VRCLC  
Interpret the Difference?***



**Advocacy Tip:** Title IX has specific reporting obligations for school officials and employees. Helping survivors understand the confidentiality implications of who they report to can help them protect their privacy and confidentiality as they make decisions about disclosing the assault.

# Understanding Victim's Confidentiality and its Limits Under Title IX



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Responsible Employees

Persons with Statutory  
Privilege

Persons with  
Confidentiality

# Confidentiality Rights



- If victims have an individual on their campus with statutory privilege, **victims have the right** to disclose to that individual and they are required by law to keep that information confidential.
- **Victims have the right** to request confidentiality from professors, administrators, resident hall staff, or other school staff you may report to; however, victims may be required to provide some identifying information about your disclosure to the campus Title IX Coordinator, and in very rare instances, the school may have to override the confidentiality request.

# Importance of Confidentiality



- “The specific steps in a school’s Title IX investigation will vary depending on the nature of the allegation, the age of the student or students involved, the size and administrative structure of the school, state or local legal requirements (including mandatory reporting requirements for schools working with minors), and what it has learned from past experiences.” (FAQs Page 24)
- “Schools should inform and **obtain consent from the complainant**...before beginning an investigation.” (DCL Page 5)
- “A school should be aware that disregarding requests for confidentiality can have a chilling effect and discourage other students from reporting sexual violence...” (FAQs Page 19)

# Group One: Responsible Employees



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## One

An Employee who has the authority to take action to redress the harassment or

## Two

An employee who has the duty to report to the appropriate school officials sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee

## Three

An individual who a student could reasonably believe has this authority or duty

# Group Two: Campus Employees with Privilege

Persons with statutory privilege are **NOT** required to report any information regarding a disclosure of sexual violence for Title IX purposes.

- Determined by state law
- Must be acting in that capacity at time of disclosure
- Does not prevent a formal report

Depending on your state laws, positions could include:

- campus mental-health counselors,
- pastoral counselors,
- social workers,
- psychologists,
- health center employees,
- or any other person with a professional license requiring confidentiality, or who is supervised by such a person

# Group Three: Campus Employees with Confidentiality



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“People who provide assistance to students who experience sexual violence and are not professional or pastoral counselors”

- “all individuals who work or volunteer in on-campus sexual assault centers,
- victim advocacy offices,
- women’s centers,
- health centers,
- including front desk staff and students.”

\*\*Non-licensed persons are **STRONGLY ENCOURAGED**, but not required, to be designated as individuals who are exempt from responsible employee reporting duties. \*\*

# Accommodation Rights



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- **Victims have the right** to ask for safety measures to be put in place by their school once there is a report or disclosure.
- **Victims have the right** to report any retaliation that occurs after a report. This may include retaliation by the accused or his or her friends, club members, or teammates.

# Advocating for Safety



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If your organization supports survivors in the restraining order process explain to campus survivors how you can assist them.

**Advocacy Tip:** Victims know their safety best. Schools may offer no-contact orders to survivors that provide various forms of protection on campus. This DOES NOT mean that the survivor cannot also obtain a protective order issued by a court. Restraining orders carry criminal liability for violations and thus increased consequences for perpetrators.

# Legal Support



You should always refer survivors to an attorney in your state for legal questions or individual representation.

# Resources



VRLC, *Know Your Rights: Understanding Title IX for Campus Sexual Violence Victims*, available at:  
<http://victimrights.org/sites/default/files/VRLC%20Know%20Your%20Rights-%20Title%20IX%20.pdf>

January 2001, Office for Civil Rights Guidance, available at:  
<http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

April 2011, Dear Colleague letter, available at:  
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>

April 2014, Questions and Answers on Title IX and Sexual Violence, available at:  
<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>

Nancy Chi Cantalupo, *Campus Violence: Understanding the Extraordinary Through the Ordinary*, 35 J.C. & U.L. 613-690 (2009), available at:  
<http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1427&context=facpub>.

Nancy Chi Cantalupo, *Burying Our Heads in the Sand: Lack of Knowledge, Knowledge Avoidance, and the Persistent Problem of Campus Peer Sexual Assault*, 43 Loy. U. Chi. L.J. 205 (2011).

# Information & Evaluation



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Through OVC's Legal Assistance for Crime Victims Training and Technical Assistance Initiative, OVC's Training and Technical Assistance Center (OVC TTAC) is working to develop and deliver training and provide technical assistance to the legal community. Training and technical assistance provides attorneys across the country with the tools they need to increase their knowledge base about crime victim issues and increase their capacity to provide pro bono or no-cost legal representation to crime victims.

Visit the [Legal Assistance for Crime Victims Initiative](#) page to learn more about upcoming and archived trainings or e-mail us at [legalassistance@ovcttac.org](mailto:legalassistance@ovcttac.org) for technical assistance and support.

Thank you for attending this Webinar. Please take a few minutes to complete the [evaluation](#).