



# **A Taste of Title IX: Insights on the Past, Present, and Future of the Field**

Dr. Laura McGuire

# Why did I write this book?

- When I started out, there were little to no intro-to-the-field resources.
- So much upheaval happened after the DCL of 2011.
- Messages about consent and sexuality were being taught in less than helpful ways and were thus rejected by students and faculty.

## THE SEXUAL MISCONDUCT PREVENTION GUIDEBOOK



Dr. Laura McGuire

with a foreword by  
Brett A. Sokolow, J.D.

# How did we get here? Title IX

1972 — 1982 — 1991 — 2011 — Today

## **Bernice Sandler**

Dr. Sandler files a lawsuit based on her inability to obtain employment with help from the Women's Equity Action League (WEAL). Their case leads to Title IX.

## **Affirmative consent is born**

New York City-based gay male S/M activists created a community that would write the first affirmative consent bylaws. They called them SSC: safe, sane, and consensual (later RACK, and now explicit prior permission [EPP])

## **Antioch College**

In 1991 student activists started the first campus prevention programs at Antioch College. This leads to much ridicule but also a systemic shift.

## **Dear Colleague**

In 2011 the Obama Administration writes the Dear Colleague letter that will forever change how we think of TIX and misconduct response from universities.

## **Changing landscapes**

Today, changes continue to evolve. More attention to how TIX impacts trans, queer, and disabled students comes into play as political swings place schools on high alert. Cross-examinations start, and informal resolutions become more of the focus.



# What do rape-free cultures teach us?

- 1 Sexual agency and subjectivity matter.
- 2 Fear-based messages are ineffective.
- 3 Cultures that empower those most at risk of harm help everyone.
- 4 Community members must feel supported to be safe.

# What works in prevention?

- ❖ Students' perspectives are key
- ❖ Culturally humble and customized to specific audiences
- ❖ Risk Aware vs. Risk Reductive (Harm Reduction)
- ❖ Builds upon previous/future knowledge
- ❖ Infused into other aspects of education
- ❖ Not reliant on online or orientation settings



# Creating a productive reporting culture

- ✓ Do not perpetuate benevolent sexism/bias
- ✓ Addresses fears about “ruining someone’s life” and offers restorative options
- ✓ Clarifies processes, timelines, and retaliation concerns
- ✓ Offers tools for multiple ways of communicating



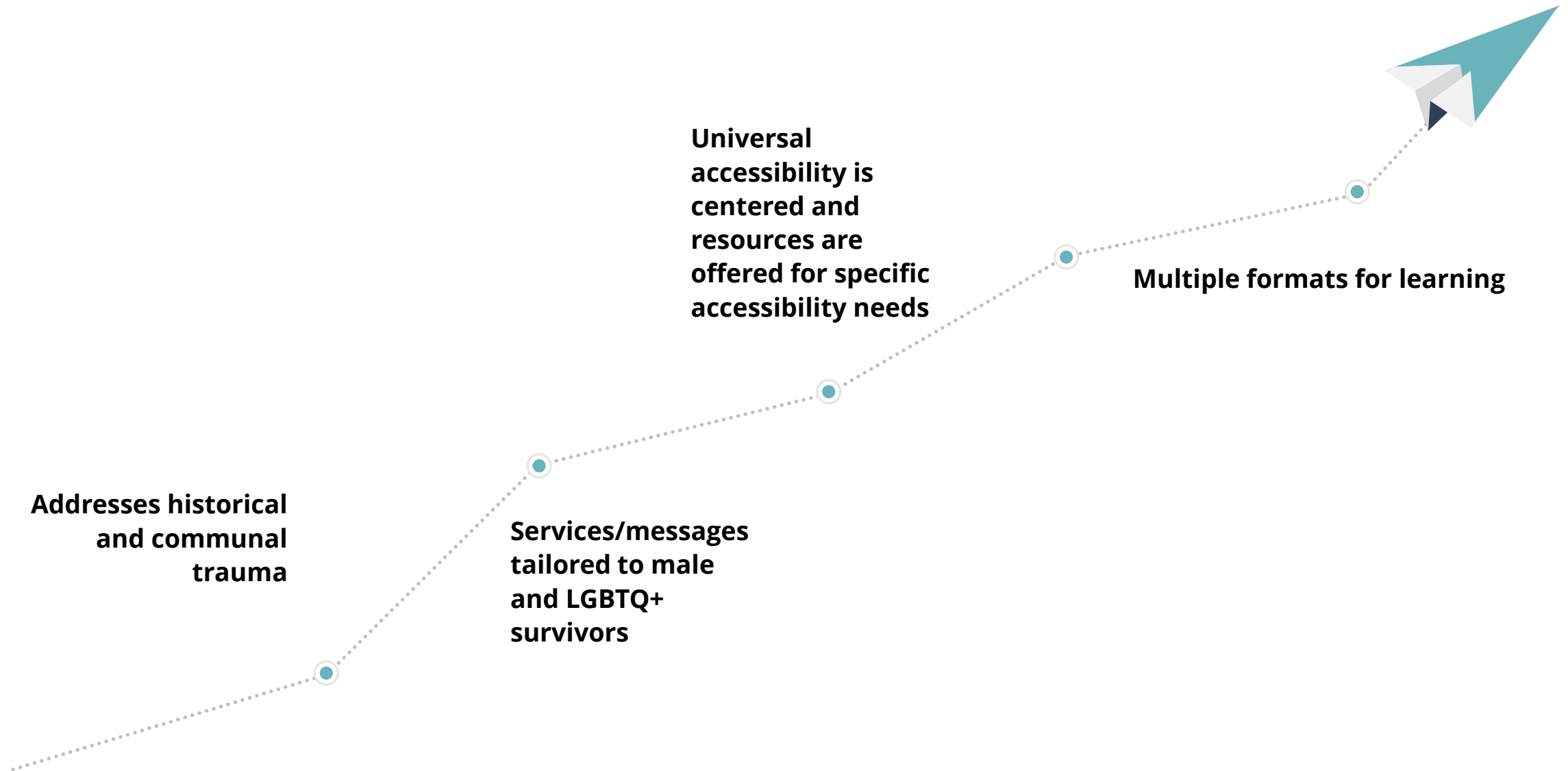


# Addressing resistance

- Cognitive dissonance
- Selective perception
- Exceptionalism
- Must/can I believe



# Inclusion in school prevention & response





# Restorative justice



**“The fundamental premise of the restorative justice paradigm is that crime is a violation of people and relationships (Zehr, 1990) rather than merely a violation of law.”**

Latimer, J., Dowden, C., & Muise, D. (2005). The effectiveness of restorative justice practices: A meta-analysis. *The prison journal*, 85(2), 127–44.

- Began in the 1970s
- For a program to be part of this model, there must be three main elements: voluntary participation, truth-telling, and facing the impact of offenses.
- The process leads to greater victim satisfaction when compared to traditional justice systems.
- Decreases recidivism
- Cross-cultural examples include Navajo Peacemaking Practices and Jewish mandates on Teshuva processes.

# Learning environments that work



Multicolored graduation caps.



Students sit at computers looking ahead.



Students sit outside laughing together.

## Comfort

Size of space, lighting, neutrality

Not solely lecture-based

Cognitive-developmental approach (not indoctrination of values clarification)

## Cohesion

Comfort in the group

Small cohorts with some previous connection

Too much homogeneity can create an echo chamber

## Commitment

Not a one-time experience

Trust and rapport take time to build

Set a schedule, monitor their progress, build a system that is sustainable

# A vision for the future

Frequent and ongoing (April to October bridge)

Professionally facilitated

Include gender role socialization, risk education, rape myths, rape attitudes, rape avoidance, victim empathy, dating communication, controlled drinking, etc.

Supplemented with media and campaigns

Comprehensive, appropriately timed, varied teaching methods, sufficient dosage, administered by well-trained staff, model positive, relationships, socio-culturally relevant, theory-driven










**Thank you!**

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A photograph of two young people sitting on concrete steps. The person on the left is wearing a white t-shirt and dark blue jeans, with black sneakers on a skateboard. The person on the right is wearing a grey t-shirt and light blue jeans, with bright orange and teal sneakers on a skateboard. The person on the right is holding a smartphone. The background is a plain concrete wall.

# **Snaps, Sexts and Sex Ed – Education and Protection from Technology-Facilitated Sexual Abuse in K12 and Higher Ed**

**RANDI SPIKER, M.S.**

**FLORIDA INTERNATIONAL UNIVERSITY**



# Agenda

**WHAT IS TECHNOLOGY-  
FACILITATED SEXUAL ABUSE –  
SOME WORKING DEFINITIONS**



**WHAT ARE THE CONSEQUENCES  
FOR STUDENTS WHO EXPERIENCE  
TFSA?**



**HOW DO WE COMBAT TFSA IN  
THE EDUCATIONAL  
ENVIRONMENT?**



**HOW SHOULD WE RESPOND  
TO TFSA ON OUR CAMPUSES?**



# What is TFSA?

## (Henry & Powell, 2014)

Online sexual harassment and cyberstalking

Gender-based hate speech

The use of a carriage service to procure a sexual assault

Virtual Rape

The unauthorized creation and distribution of sexual images (IBSA)

The creation and distribution (actual or threatened) of sexual assault images (RSA)

# Online sexual harassment

Gender harassment (e.g., inappropriate sexual jokes), unwanted sexual attention (e.g., unwanted sexual comments) and sexual coercion (e.g., making requests for sexual acts)

(Buchanan & Mahoney, 2022; Fitzgerald et al, 1988; Hill & Kearl, 2011).

# Cyber stalking

Repetitive and unwanted communication or contact that is directed toward an individual through electronic means (e.g., Internet, social media, email or other forms of technology)

(Maple et al., 2012; Marcum et al., 2017; Nobles et al., 2014; Paullet et al., 2009; Strawhun et al., 2013)



# Gender- based hate speech

Dangerous speech, fear speech or extreme speech directed at certain individuals or groups of people considered to be inferior based on core identity features or demographic markers<sup>1</sup>, encouraging stigmatization of a person or group<sup>2</sup>. Such hate speech legitimizes violence against targeted individuals or groups of people<sup>3</sup>

1.(Hernandez, 2011; Townsend, 2014; Traum, 2014) 2. (Benesch, 2014; Maussen & Grillo, 2014) 3.(Jubany & Roiha, 2018; Parekh, 2006)

# **The use of a carriage service to procure a sexual assault**

Using technology, such as a social media or messaging application, to plan, coordinate or solicit the sexual assault of another person, regardless of whether such sexual assault actually occurs.

(Henry & Powell, 2014)

# Virtual rape (Strikwerda, 2013)

Within the virtual world (i.e., within a video game, Metaverse, or virtual reality simulation) wherein one or more persons use technology to have their avatar forcibly perform sexual activities upon another person's avatar without the victim's consent







## What is Image-Based Sexual Abuse (IBSA)

The creation and/or sharing of sexual or nude images or videos of another person, without their consent

(McGlynn & Rackley, 2015; 2017)

# **Nonconsensual Sexting**

The forced sharing of nude  
images via text or messenger  
services

(Albury, 2015)

# **Nonconsensual Distribution (NDII)**

The distribution or sharing of nude or intimate images or videos, without the consent of the person or persons in the images

(Citron & Franks, 2014; Henry & Powell, 2015; McGlynn et al, 2017)

# Sextortion

The sharing or threat to share nude or intimate images or videos without the consent of the victim, as a form of extortion

(Henry & Powell, 2018).



# Deepfakes or Digital Forgeries

Sexual images or videos created using artificial intelligence-based human synthesis technology which replicate or alter a person's features or body, to make it appear as though the victim is participating in the sexual activity shown in the images.

(Fido et al, 2022; Henry & Powell, 2015; McGlynn et al., 2017).

# **Recorded Sexual Assault (RSA)**

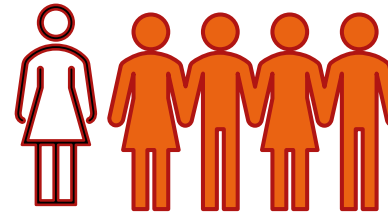
RSA occurs when either a perpetrator or an observer record a person's sexual assault using one or more forms of video or audio recording device

# Sharing intimate images is common among minors and adults

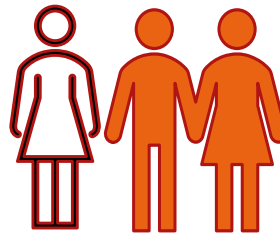
54% of women report receiving an intimate image

47% of receivers were unsolicited

46% of receivers were under age 18



1 in 5 minors report sharing nudes



1 in 3 minors report receiving nonconsensually shared nudes of other minors

7-17% of adults report having experienced NDII (Cyber Civil Rights Initiative, 2017; Powell & Henry, 2015; Ruvalcaba & Eaton, 2020)

Low-income adults and people of color are disproportionately more likely to experience IBSA (Lenhart et al, 2016)

40,000 people in the United States reported being sextorted in 2022 (Federal Bureau of Investigations, 2023)

17% of LGBTQ adults report experiencing at least one form of IBSA (Lenhart et al, 2016)

1 in 20 U.S. adults self-report perpetrating IBSA (Ruvalcaba & Eaton, 2020)



# What are the consequences for students who experience TFSA?

- ▶ PHYSICAL
- ▶ EMOTIONAL OR PSYCHOLOGICAL
- ▶ EDUCATIONAL



# Physical

- ▶ Head and body aches
- ▶ Decreased or increased appetite
- ▶ Lethargy
- ▶ Struggle to complete basic self care tasks
- ▶ Increased alcohol and substance use



(Bates, 2017; Champion et al, 2022; Cripps, 2016; Ruvalcaba & Eaton, 2020; Reed et al, 2019; Spiker et al, in progress)



# Emotional/Psychological



- ▶ Anxiety
- ▶ Depression
- ▶ Stress
- ▶ Isolation/Loneliness
- ▶ Decreased self-esteem
- ▶ Increased feelings of objectification
- ▶ Increased suicidality

(Champion et al, 2021; 2022; Cripps, 2016; Henry & Powell, 2015; Klettke et al, 2019; Pashang et al, 2019; Ruvalcaba & Eaton ,2020; Reed et al, 2019; Spiker et al, in progress)

# Educational

- ▶ Poorer academic performance
- ▶ Lower rates of academic retention and graduation
- ▶ Program changes
- ▶ Social isolation
- ▶ Potential and actual loss of income, social mobility, social stability

(Al-Rahmi et al, 2022; Champion et al, 2022; Spiker et al, in progress)





# How can we combat TFSA on our campuses?

- ▶ Holistic Sexual Education
- ▶ Digital Citizenship
- ▶ Public Leadership



# Sexual Education in K12

Not all students  
receive sexual health  
and consent  
education



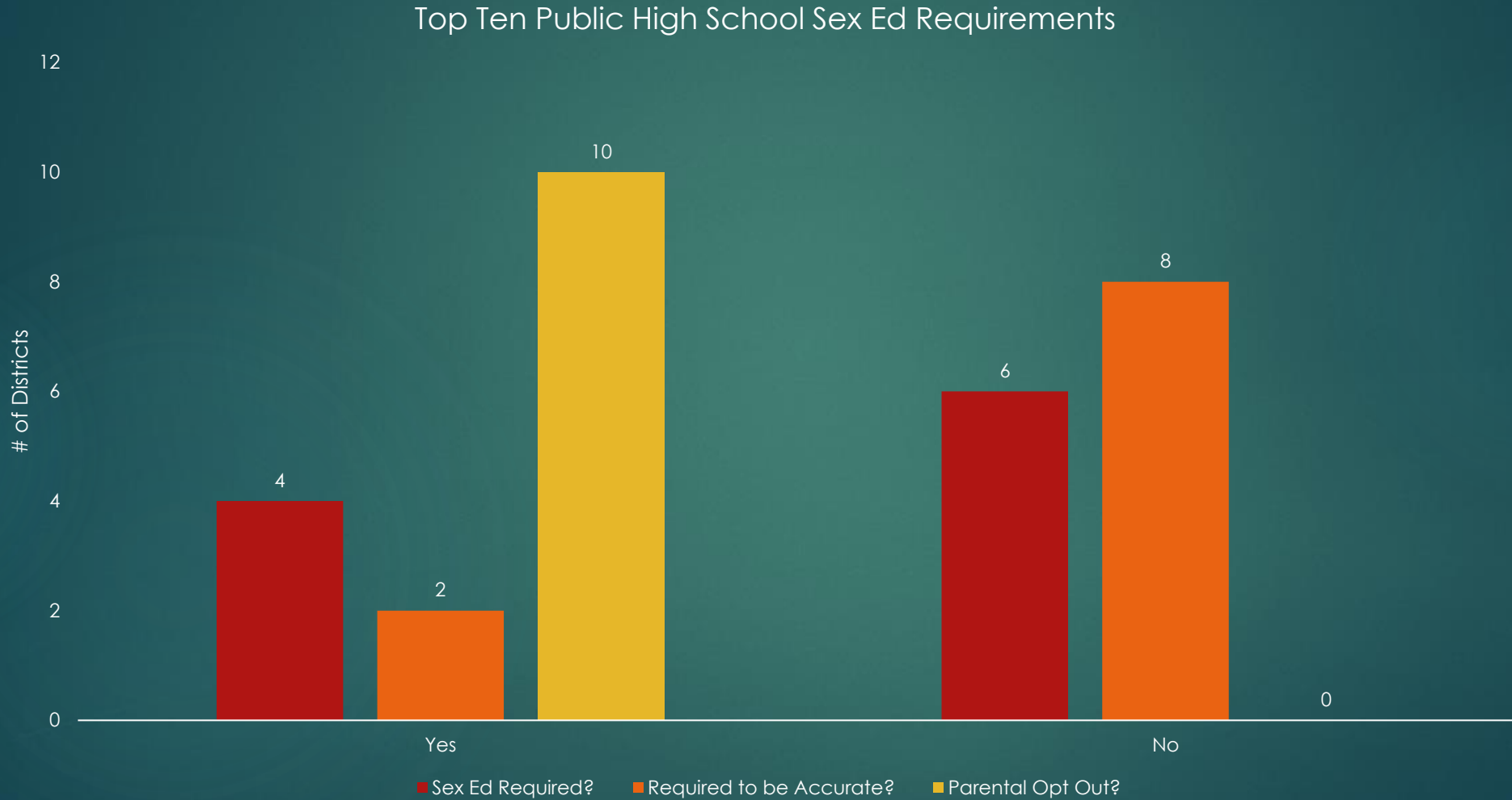
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graph TD; A[Not all students receive sexual health and consent education] --> B[Not all students receive the same quality of education]; B --> C[Current Title IX requirements for student education do not include TFSA or digital citizenship];
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The diagram consists of three stacked, rounded rectangular boxes connected by downward-pointing arrows. The top box is orange, the middle box is yellow, and the bottom box is green. The arrows are light pink and light yellow respectively. The entire diagram is set against a white background with a thin grey border. A red vertical bar is visible on the right edge of the white background.

Not all students receive  
the same quality of  
education

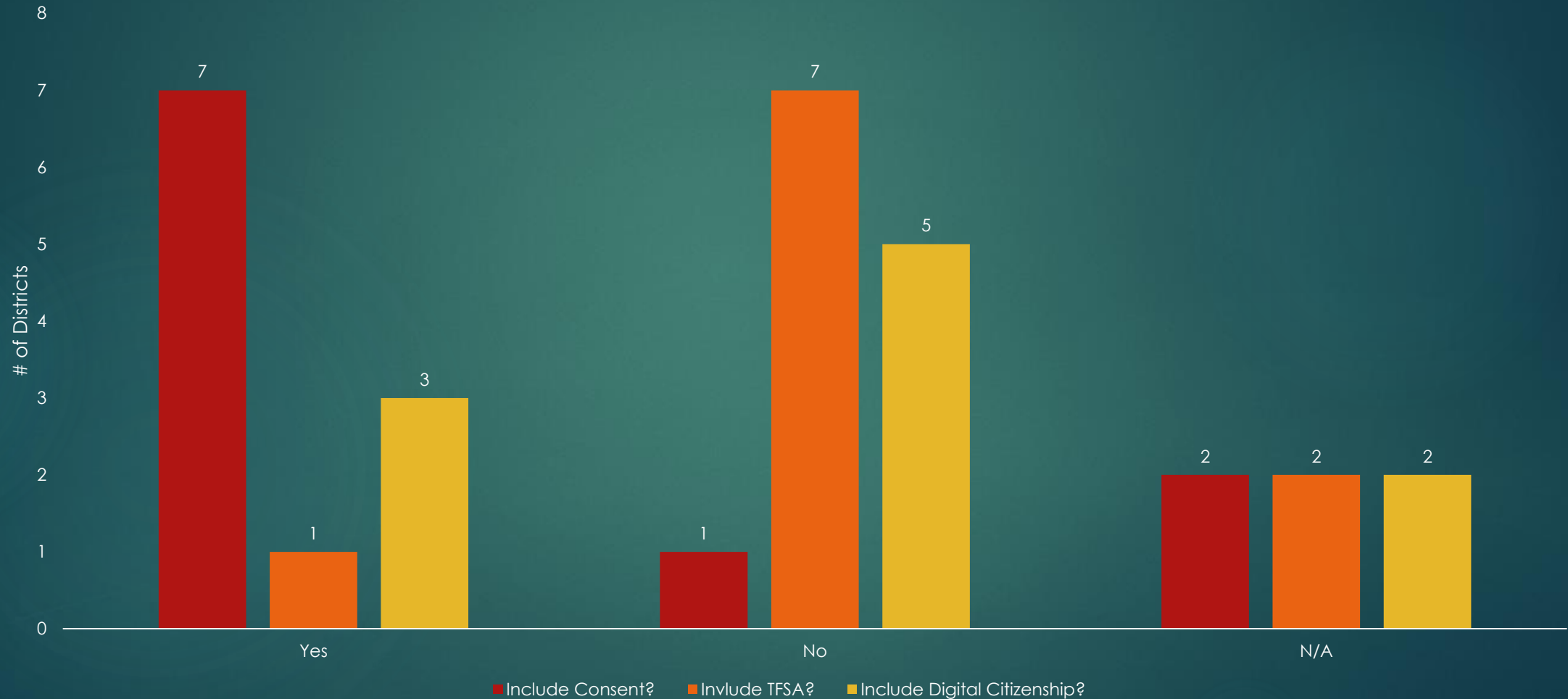
Current Title IX  
requirements for student  
education do not include  
TFSA or digital citizenship

# K12 Sex Ed – is it being taught?



# What is being taught in K12?

Top Ten Public Schools Sex Ed Requirements





# A Challenge to Change!



**Is your school actively encouraging egalitarian values (Ringrose & Regehr, 2023)?**

- ▶ Typical U.S. sexual education does not address power structures and gender imbalances (Haberland, 2015; Lloyd, 2020)
- ▶ Health and sexual education classes remain largely single-sex, encouraging further divide
- ▶ Exposure encourages compassion

# What does this mean for Higher Ed?

- ▶ Many undergraduates come to campus with little to no sexual or consent education
- ▶ Undergraduates are coming to campus with already established schemas about sex and gender roles and norms, and social power structures (Ballonoff Suleiman et al, 2014)
- ▶ 17% of students are coming to campus already having experienced TFSA (Pew Research Center, 2022)

But it's not all bad news....

# The Importance of Holistic Sexual Education



- ▶ Students report wanting to receive more interactive and in-depth coverage (Muscari et al, 2023)
- ▶ Emerging adults are still susceptible to peer pressure while doing their own identity exploration (Arnett, 2014)
- ▶ Consent education works, particularly in male-dominated populations (Ortiz & Schafer, 2018; Schipani-McLaughlin et al, 2023)
- ▶ Consent education must include training in both verbal and non-verbal consent communication



# Digital Citizenship

## Responsible social media and technology use

- ▶ Do your students understand the impacts to others?
- ▶ Do your students understand the potential impacts to themselves (i.e., legal risk?)





# Public Leadership

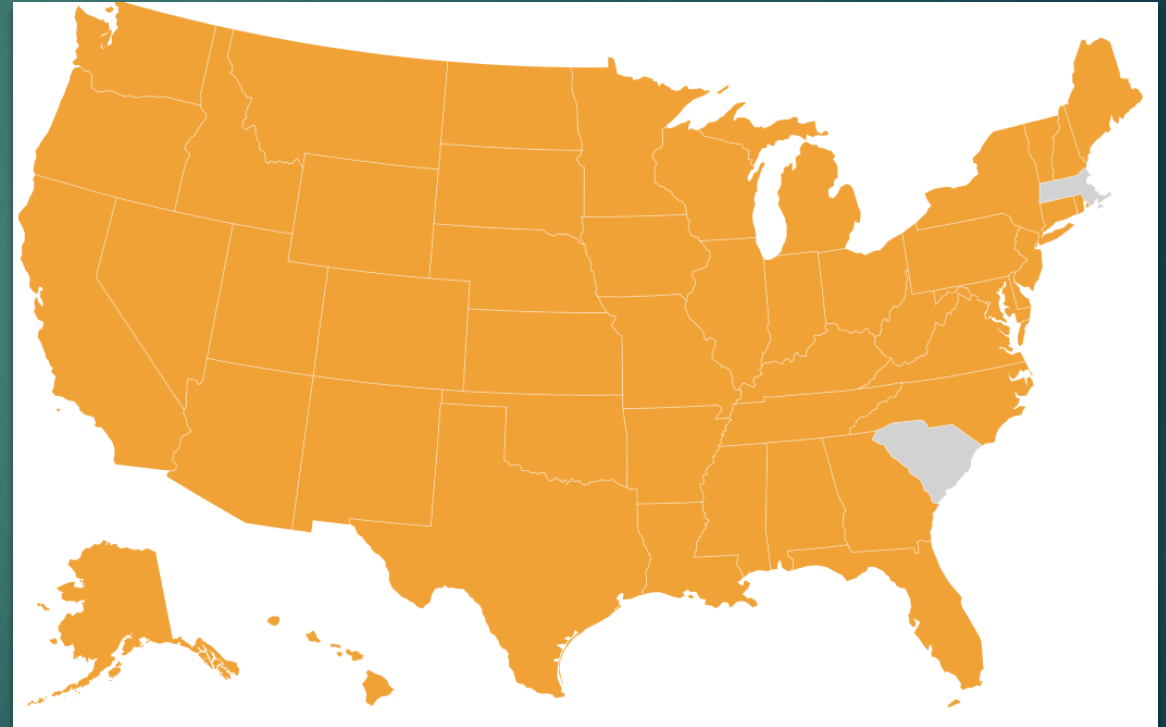
- ▶ No tolerance for TFSA
- ▶ Affirmative Consent policies must include intimate image sharing
- ▶ Target vulnerable populations, e.g. athletes, Greek life

(Mellons et al, 2017; Ortiz & Schafer, 2018)

# 48 states and the District of Columbia have laws explicitly criminalizing NDII

- ▶ Perpetrators may face jail time, fines and/or the prospect of having a sex crime on their record
- ▶ The VAWA reauthorization (March 2022) introduced the 1<sup>st</sup> federal law, allowing victims of NDII to sue their perpetrators in civil court.

(Communications Decency Act, 2022; Cyber Civil Rights Initiative, 2021)



Map courtesy of Ballotpedia  
[https://ballotpedia.org/Nonconsensual\\_pornography\\_\(revenge\\_porn\)\\_laws\\_in\\_the\\_United\\_States](https://ballotpedia.org/Nonconsensual_pornography_(revenge_porn)_laws_in_the_United_States)



# What can we do when TFSA has happened among our students?

- ▶ How are we supporting Complainants
- ▶ How are we supporting Respondents
- ▶ How are we addressing and supporting the student body
- ▶ How are we addressing parental concerns



# How are we supporting Complainants?

- ▶ Are all Title IX staff fully trained in understanding and responding to TFSA?
- ▶ Does your team make it easy for students to come forward for help?
- ▶ Do you actively partner with law enforcement?
- ▶ Are your responses complainant-led and individualized to each situation?
- ▶ Do you practice Restorative Justice?
- ▶ Do you have an up-to-date list of resources available in office and on your website?



# How are we supporting Respondents?

Many students struggle to understand differences in consent languages

(Herman et al., 2018; Hickman & Muehlenhard, 1999; Jozkowski, et al., 2013; Jozkowski, et al., 2017; Orchowski et al., 2009, Spiker & Chin, 2023)

- ▶ Can you offer additional training in affirmative consent, healthy boundaries and digital citizenship?
- ▶ In our practice of restorative justice, how can we encourage respondents to support increased TFSA awareness?

# How are we addressing wider student body concerns?



- ▶ Mandatory Title IX training should encourage reporting behaviors
- ▶ Has your school made it easy to report TFSA anonymously?
- ▶ Do your students know that their Title IX office can handle complaints of TFSA (Spiker & Chin, 2023)?
- ▶ Do you have a campaign advocating for affirmative consent, and does the language explicitly include TFSA?
- ▶ Have your student mental health workers been trained in responding to TFSA?
- ▶ Do your student mental health services include support groups for victims of TFSA?

# How are we addressing parental concerns?

- ▶ Does your school include language about TFSA safety on its website and in its literature?
- ▶ Is it clear who a parent should reach out to with concerns about TFSA?
- ▶ Are TFSA resources freely available on your website?
- ▶ For K12 – do you have a system in place for parent reporting?





# Conclusions

- ▶ TFSA is a real and growing problem for both minors and adults – the law is not keeping up with the technology
- ▶ Many students will go to college having already experienced at least one form of TFSA
- ▶ TFSA awareness and education needs to be increased on K12 and Higher Ed campuses
- ▶ Consent education works, especially when targeted at male-dominated and vulnerable populations
- ▶ Many Respondents are likely not aware of the long-term consequences to themselves of perpetrating TFSA
- ▶ Title IX offices need to be fully prepared to handle complaints that only involve harassment and abuse in the digital world



## Image Take Down:

For images taken before age 18:

Missing Kids.org

<https://www.missingkids.org/isyourexplicitcontentoutthere>

National Center for Missing and Exploited Children

<https://takeitdown.ncmec.org/>

For images taken after age 18:  
Without My Consent

<https://withoutmyconsent.org/resources/something-can-be-done-guide/take-down/>

For Support:



Cyber Civil Rights Initiative

<https://cybercivilrights.org/>  
1-844-878-CCRI (2274)

National Domestic Violence Hotline

<https://www.thehotline.org/>  
1-800-799-SAFE (7233), or text START to 88788

Federal Trade Commission

<https://consumer.ftc.gov/articles/what-do-if-youre-target-revenge-porn>

# The Complexities of Gender Fluid & Non-Binary Students



# Imprint

legal group



Jessica Heiser, Esq.  
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# Ain't Gender Theory 401

We use **non-binary**, **gender fluid**, **gender creative**, **gender queer**, and **gender expansive** interchangeably and imprecisely here.

They all describe any identity that is not exclusively and consistently on the male/female binary, which can include **all** genders or **no** gender at all.

There are a bevy of ever-changing descriptors for each individual's experience of gender and we honor whatever language an individual uses to describe themselves.



Lesbian

Gay

Bisexual (pansexual)

Trans\*

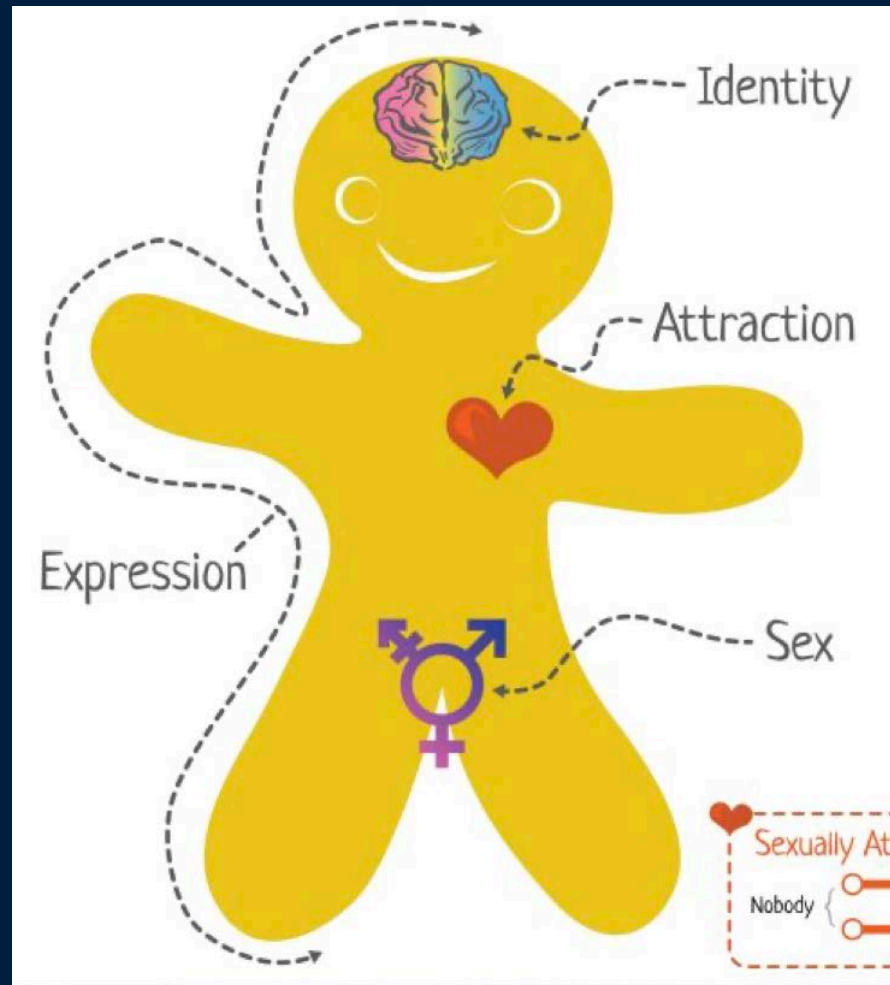
Queer/Questioning

Intersex

Asexual

[myriad of SOGI identities]





1

Evolution  
of Title IX

2

Unique  
Challenges of  
Non-Binary  
Students

3

Application of  
Title IX

4

Forward  
Thinking/  
Inclusive  
Spaces





1

# Evolution of Title IX



The background of the slide features a photograph of three dancers in traditional Indian attire, specifically green and gold saris with red borders. They are performing a dance on a stage, with their arms extended in a synchronized pose. The lighting is dramatic, with spotlights illuminating the dancers against a dark background. The text "Courts and OCR are in a constant dance" is overlaid in a large, white, sans-serif font.

Courts and OCR are in  
a constant dance



Title IX  
passes

1972



*Franklin v. Gwinnet  
County Public Schools*

SCOTUS: Title IX  
applies to victims of  
sexual assault

OCR: Title IX  
applies to  
transgender  
students

(Revoked in 2017, reinstated  
2021)

1992

2016

1989



*Price Waterhouse v.  
Hopkins*

“Sex stereotyping” is  
sex discrimination under  
Title VII

2011-13

OCR: Title IX  
applies to young  
parents,  
pregnant  
women

© Copyright

advice.



*G.G. v. Gloucester County School Board*  
(4th Cir)  
Title IX applies to transgender students



OCR: *Bostock*  
interpretation  
applies to Title IX.  
20 AGs sue.

*A.C. v. MSD of Martinsville and B.E. v. Vigo County School Corporation*  
(7th Cir.), *Grabowski v. Arizona Bd. of Regents* (9th Cir.) Title IX still  
applies to transgender students

*Adams ex rel. Kasper v. School Board of St. Johns County* (11th Cir.)  
No it doesn't

2017

2020

2021

2023

*Whitaker v. Kenosha Unified School District* (2017)

7th Cir: Title IX applies to transgender students



*Bostock v. Clayton Co.*

SCOTUS: Firing an  
employee for being gay or  
transgender is discrimination  
under Title VII



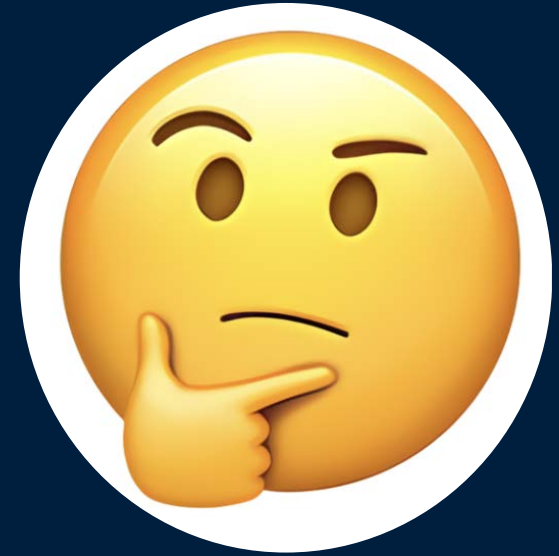


## Anticipated 2024-2025

- Title IX regs change (Biden)
  - Explicit protections for sexual orientation and gender identity
- Force and effect of Title IX regulations likely makes 20 AGs' challenge moot
  - *State of Tenn., et al. v. U.S. Dep't of Educ.*, No. 3:21-cv-308 (E.D. Tenn.) (July 15, 2022)
- SCOTUS to address circuit split



How do the courts  
“determine” someone is  
transgender?



## How have Courts Determined a Student is Transgender?

- Prolonged social transition (1+ yrs. using name, pronouns, haircut, clothing. “He has never wavered from this identity since his social transition.”)
- Gender dysphoria diagnosis
- Therapy



# How have Courts Determined a Student is Transgender?

- Prescribed hormone treatment for 1+ yr.
- Amended birth certificates w/ name & gender marker change (if okay'ed by state law)
- Doctor's sign-off
- Top surgery (mastectomy)

*A.C. v. MSD of Martinsville and B.E. v. Vigo County School Corporation (7th Cir. 2023); Grimm v. Gloucester County School Board (4th Cir. 2020), with Adams ex rel. Kasper v. School Board of St. Johns County, (11th Cir. 2023)*

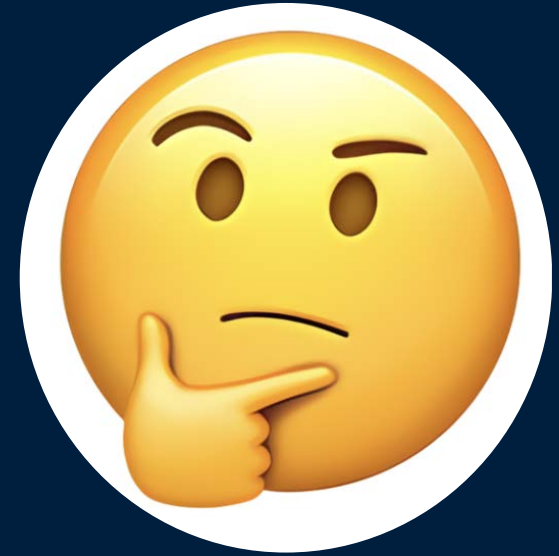




2

# Unique Challenges Posed by Non-Binary Students

In what ways do we  
require students to declare  
their gender at school?



**Dress code &  
uniforms**

**Roles in school play**

**ships &  
aid**

**Prom and  
homecoming  
courts**

**Graduation  
gowns**







“

These institutional binaries make non-binary young people **simultaneously invisible and hypervisible** in schools . . . : they are invisible because they are erased by the binary system and its assumptions, while being hypervisible due to their uncategorisability within a binary system.

”

Carrie Paechter, Alex Toft & Anna Carlile (2021) Non-binary young people and schools: pedagogical insights from a small-scale interview study, *Pedagogy, Culture & Society*, 29:5, 695-713, DOI: 10.1080/14681366.2021.1912160

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# Non-Binary Isn't Transgender

- Most transgender people are not non-binary
- Non-binary people may undergo medical procedures like hormone treatment
- Non-binary people may change legal name & gender marker (Is X available?)
- For non-binary people, navigating gendered spaces is especially fraught





The fluidity is the constant



JUNE 7, 2022



# About 5% of young adults in the U.S. say their gender is different from their sex assigned at birth

BY ANNA BROWN



A protester holds the trans flag and snaps in solidarity with other transgender rights advocates during a demonstration outside the Ohio Statehouse on June 6, 2021. (Stephen Zenner/SOPA Images/LightRocket via Getty)

Group. Not legal advice.



Transgender & non-binary young people  
are coming out at younger ages than ever  
before

... which leads to higher rates of suicide  
risk, being physically threatened, harmed,  
and discriminated against.

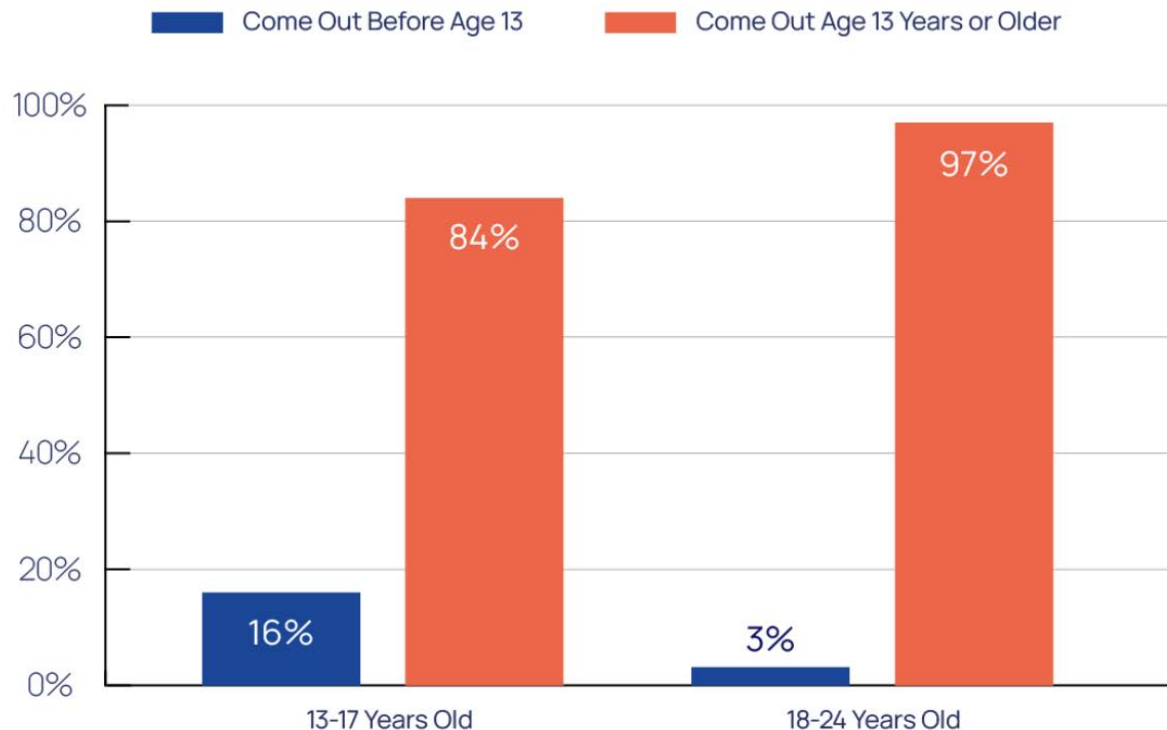
The Trevor Project. (2022). Age of Gender Identity Outness and Suicide Risk, <https://www.thetrevorproject.org/research-briefs/age-of-gender-identity-outness-and-suicide-risk-mar-2023/>.

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## Rates of Early Coming Out Among Transgender and Nonbinary Young People, by Age Group



Although the number is increasing, significant numbers of transgender and non-binary students do not come out in K-12 school, although they are questioning, exploring, and watching for safety cues.



3

# Application of Title IX to Non-Binary Students



# How OCR Has Applied Title IX to Non-Binary Students

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# OCR's Position

- OCR has declared that Title IX prohibits discrimination on the basis of “gender identity” since 2016
  - Revoked 2017-2021 during President Trump administration
  - Will be codified in 2023/24 Title IX regs
- Always lumped transgender & non-binary individuals together





# First Public OCR Resolution Agreement with Non-Binary Student (July 2023)

## **RESOLUTION AGREEMENT Rhineland School District OCR Case No. 05-22-1029**

The Rhineland School District (District) enters into this Resolution Agreement (Agreement) with the U.S. Department of Education, Office for Civil Rights (OCR), to resolve OCR Case No. 05-22-1029. The District assures OCR that it will take the following actions to comply with the requirements of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination based on sex in any education program or activity receiving federal financial assistance.



# OCR Resolution on Non-Binary Student (July 2023)

- Rhinelander School District in Wisconsin
- Non-binary student bumped in hallway, called slur, repeatedly harassed by other students (whispering and misgendered)
- Teachers repeatedly “failed to use Student A’s name and pronouns associated with their gender identity”
- School changed Student A’s schedule to attend school in-person only part-time



# OCR's 4 Big Concerns (Typical)

1. Record keeping
2. Title IX Coordinator was not informed
3. Moved student to part-time school
4. Training
  - a. Specific district policies & procedures
  - b. Specific situations



**Harassment is  
harassment**



# How Courts Have Applied Title IX to Non-Binary Students

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# Federal Circuit Cts Yet to Address Non-Binary

- Other federal circuits' rulings only addressed transgender students explicitly
- 11th Circuit addressed “gender fluid” students as a cautionary tale around bathrooms in December 2022



## The *Adams* Outlier (11th Cir. 2022)

- School district policy: transgender students must use bathroom of biological sex or gender-neutral bathroom
- Court: The school was rightly concerned about student safety and student privacy. Title IX allows for sex-segregated spaces.



“

The School Board's decision to maintain the longstanding bathroom policy separating bathrooms based on biological sex, while providing sex-neutral bathroom accommodations for transgender students under the Best Practices Guidelines, **was motivated, in part, by the issue of gender fluidity in which students may switch between genders with which they identify.**

”



## Old Rationale

We can't let transgender students use the bathroom of their gender identity because **gender fluid** boys will "**fake transgender**" so they can use the girls' bathroom.

## New Rationale

We can't let transgender students use the bathroom of their gender identity because **gender fluid** boys will want to use the girls' bathroom one day.

“

The majority opinion warns that ruling for Adams would ‘have ramifications far beyond the bathroom door.’ . . . If we ruled for Adams, the majority opinion cautions, our decision would ‘transform schools’ living facilities, locker rooms, showers, and sports teams into sex-neutral areas and activities.’ . . . One School Board witness expressed concern that, without the bathroom policy, ‘the football quarterback’ could say ‘I feel like a girl today,’ gain entry to the girls’ restroom, and harm female students. . . .

”





“

. . . most of the majority opinion’s concerns, and the concerns of the School District, have to do with gender fluid individuals—people who are not transgender or cisgender, but who instead, according to the record, have a flexible view of gender that ‘changes between male and female.. . . This case has no bearing on the question how to assign gender fluid individuals to sex-separated bathrooms, though. The School District’s bathroom policy categorically bans only transgender students—defined as those who “consistently, persistently, and insisently” identify as one gender—from using the restroom that matches their gender identity. . . .

”



“

... By its plain terms, the policy simply does not apply to gender fluid individuals. **So, for today, we can set aside the concerns about gender fluidity.**

”



# How do we program for...?

... Situations in which transgender and non-binary students may need something different from each other, like bathrooms or changing spaces?

... Students who have gender-neutral pronouns?

**Harassment? Easy.**

**Dress code? Easy.**

**Everything else? Easy.**



4

# Forward Thinking & Inclusive Spaces



# Do we need to separate by gender here?

*Is there a reason that separating by sex or gender furthers an important interest, without resorting to gender stereotypes?*

**There will be YESes  
There will be more NOs**



**Reduce  
labeling or  
dividing  
children by  
gender in  
general**





# Update information management systems



**Reduce  
assumptions  
and gendered  
descriptions in  
general**



**Reduce  
stereotypical  
images &  
language  
in general**



# Mindful facility design, safety referenda, and simple solutions



# Northwestern



A-Z Listings



Layers



- ☒ Buildings
- ☐ Parking
- ☐ Athletics
- ☐ Campus Landmarks
- ☐ Libraries
- ☐ Bike Racks
- ☒ All-Gender Bathrooms
- ☐ Lactation Rooms



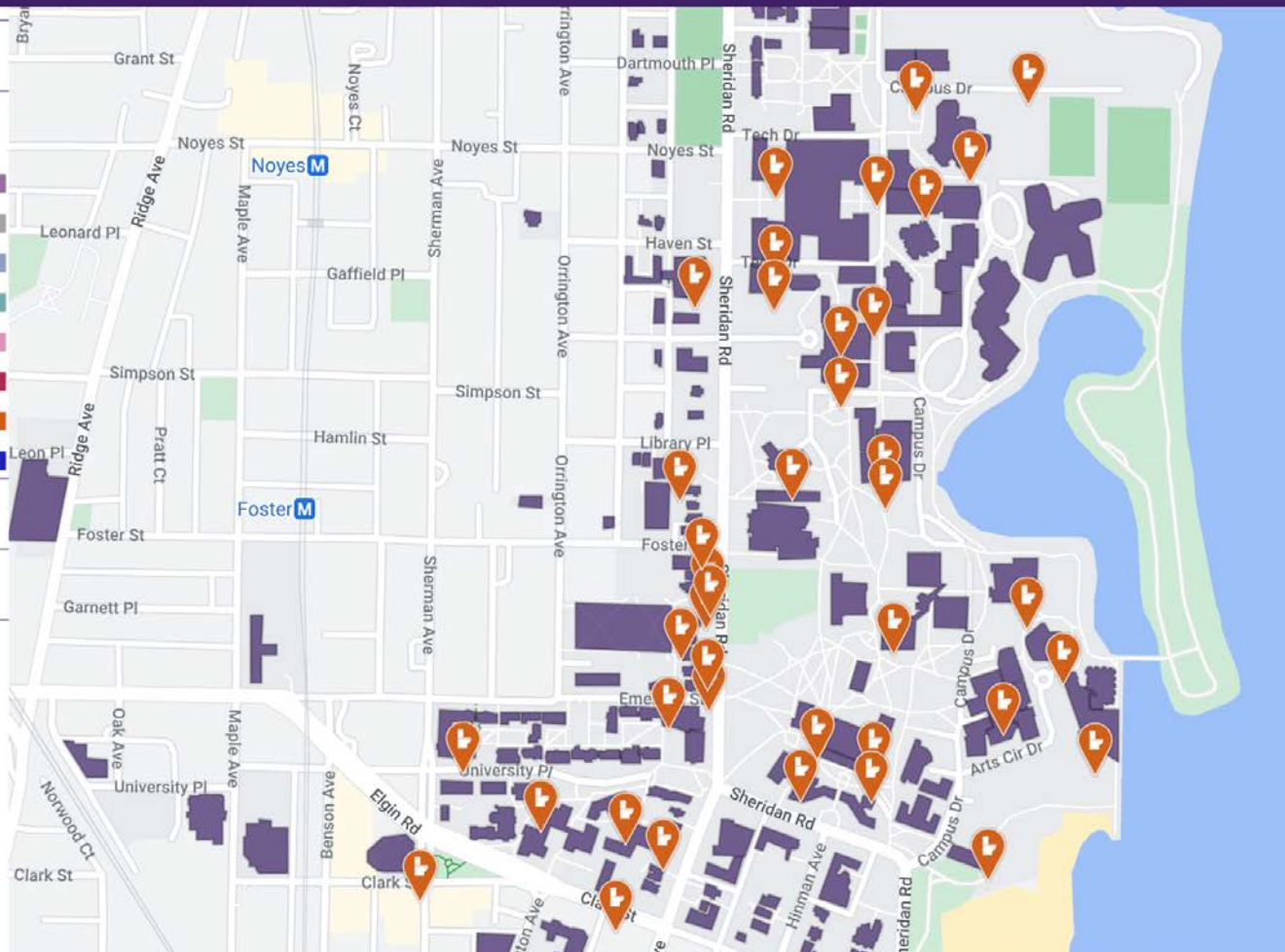
Shuttle Map



Sustainability



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- [Feedback](#)
- [Printable Maps](#)
- [Building Access](#)



# Training & everyday course corrections





“

Because schools and colleges only appeared to develop strong policies and practices **if they knew they had a trans or non-binary student** . . . a vicious circle developed that actively prevented young non-binary people from coming out. The lack of anticipatory action from schools and colleges meant that the underlying ethos of a school community might include tolerance of transphobia, with the result that **young people were afraid to come out as non-binary, so were invisible to the institution.**

”

Carrie Paechter, Alex Toft & Anna Carlile (2021) Non-binary young people and schools: pedagogical insights from a small-scale interview study, *Pedagogy, Culture & Society*, 29:5, 695-713, DOI: 10.1080/14681366.2021.1912160



# Imprint

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