



Association of
Title IX Administrators

Responding to Stalking

An ATIXA Best Practices Seminar

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Introduction



The primary focus of this seminar is to explore the complex issues related to allegations of sex-based stalking.



Resolving stalking allegations requires analysis of a continuum of behaviors and ongoing safety concerns to fulfill Title IX's mandate to stop, prevent, and remedy.



Our goal is to equip practitioners with a thorough understanding of stalking behaviors and considerations for responding to sex-based stalking allegations.

Content Advisory

The content and discussion in this course 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.

Stalking Defined

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Regulatory Definition: Stalking

Title IX regulations define stalking as:

- Engaging in a **course of conduct**
- Directed at a **specific person**
- That would cause a **reasonable person** to
- Fear for that person's safety **or**
 - The safety of others, **or**
 - Suffer substantial emotional distress

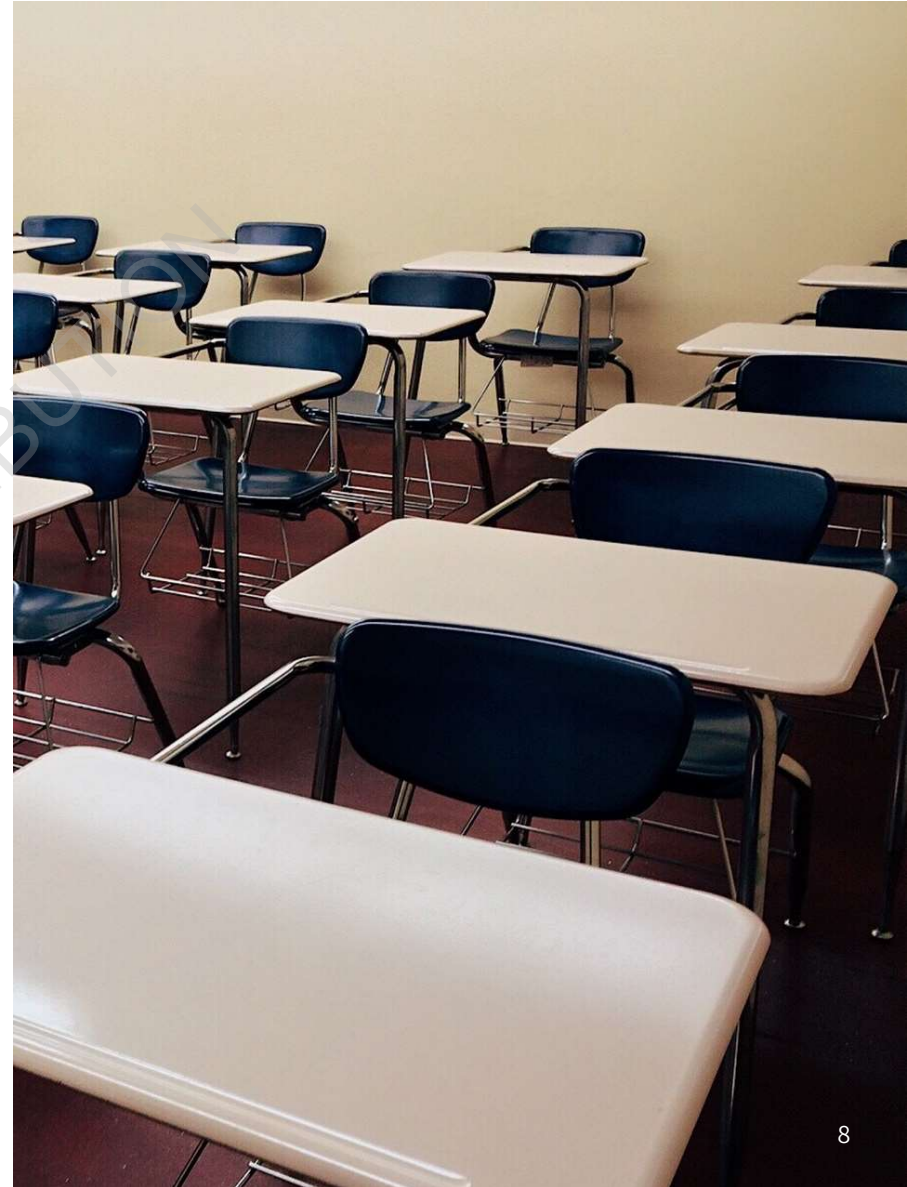


Sample Definition

Course of Conduct*

- Two or more acts, including, but not limited to, acts in which the Respondent:
 - Directly, indirectly, or through third parties
 - By any action, method, device, or means
 - Follows, monitors, observes, surveils, threatens, or communicates to or about a person
 - Or interferes with a person's property

* 2024 Regs do not provide a definition



Sample Definitions

- **Reasonable Person***
 - A reasonable person under **similar circumstances** and with **similar identities** to the Complainant
- **Substantial Emotional Distress***
 - Significant mental suffering or anguish
 - Subjective
 - Complainant does not need to seek medical or other professional treatment or counseling
 - Must only have experienced the suffering or anguish

* 2024 Regs do not provide a definition

Stalking Definition Considerations

- Stalking definition is broad and vague
 - Speech must be analyzed by policy definition
 - Title IX regulations caution to interpret consistent with the First Amendment
 - One person's protected free speech could cause anguish/suffering for another
 - Remember true threats are not protected under First Amendment
- Does not describe a menacing or harmful intent
- Does not include reference to escalating course of conduct

Non-Sex-Based Stalking

- May still violate another school/institutional policy
 - Driven by fixation
 - Motives for stalking may vary significantly; may be numerous or mixed
- 2013 VAWA Reauthorization Act requires higher education institutions to **prohibit all stalking**
 - Non-sex-based stalking is not subject to Title IX procedural requirements, but must be addressed by institutional policy
- VAWA outlines procedures to address both sex-based and non-sex-based stalking allegations
 - Ensure all policies addressing stalking allegations are compliant

Impacts of Stalking on Complainants

- Significant, ongoing anxiety
- Lost time for academic and co-curricular engagement or at work
- Decreased job or academic performance
- Relocation and/or disruption of normal day-to-day routines
- Increased risk of depression, anxiety, insomnia, social isolation, and health issues

Source: Mohandie, K., et al. (2006). The RECON Typology of Stalking. Journal of Forensic Sciences.

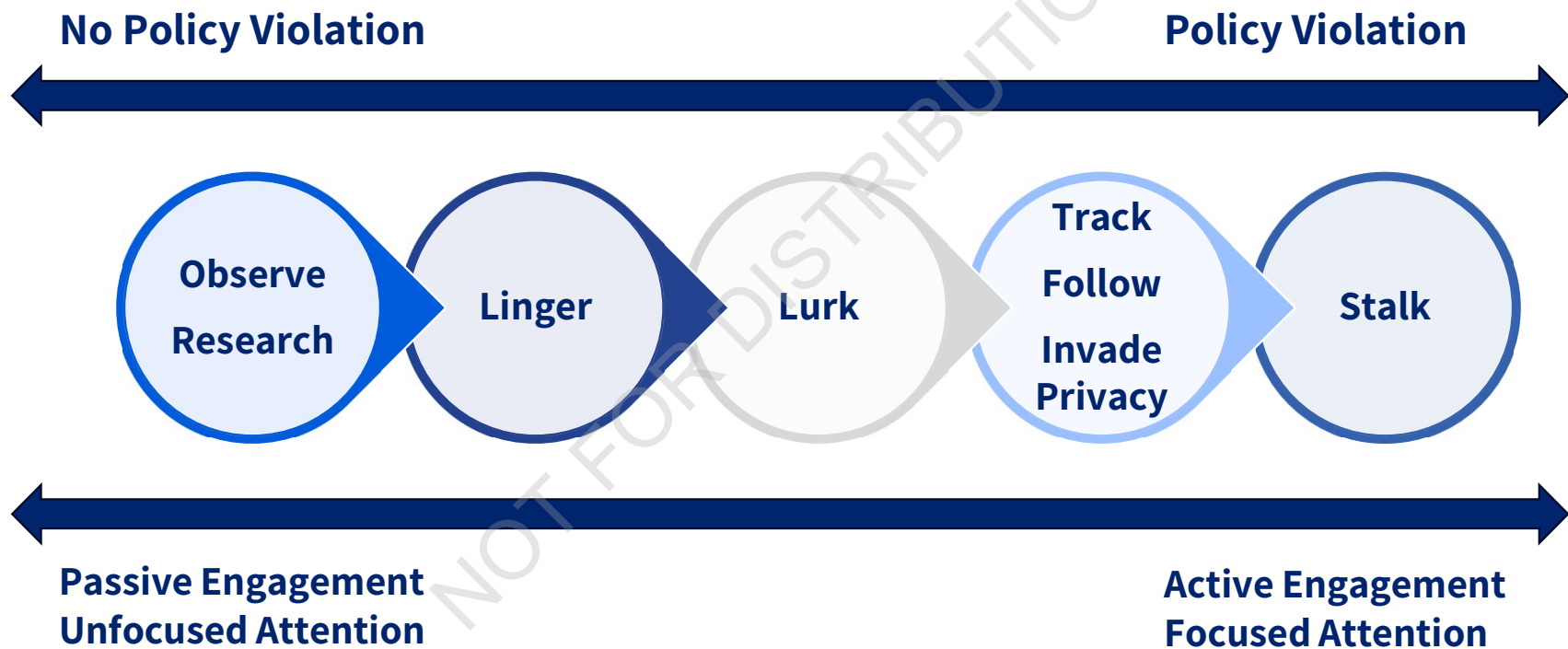


Stalking as a Continuum of Conduct

Continuum of Conduct

- Broad and vague definition “catches” a range of behaviors
- Some individuals lack social skills to navigate interactions:
 - Unrequited romantic overtures
 - Boundary setting
 - Developmental issues affecting interpersonal relations
- Anything seemingly sex- or gender-based should be referred to the Title IX Coordinator (TIXC)
- Discern stalking vs. concerning behaviors

The Continuum



Behaviors on the Continuum

OBSERVATION

- Action or process of watching something or someone carefully
-

LINGERING

- Remaining present for a long time or slow to end an encounter
-

LURKING

- Intentional encroaching, following, or bothering behavior
-

TRACKING

- Research residence, vehicle, travel, patterns, associates, activities
-

STALKING

- Engaging in a course of conduct that causes fear for safety or substantial emotional distress

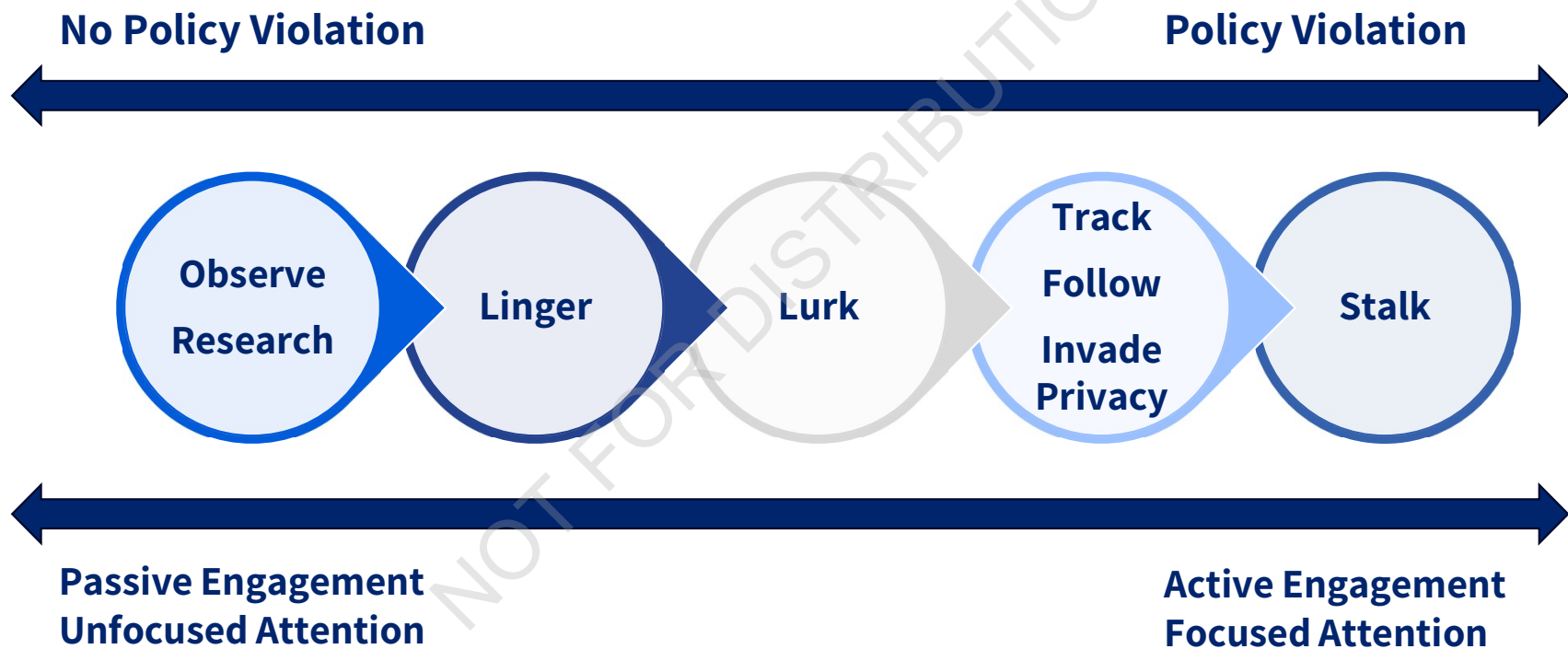
Activity: Continuum of Conduct Identification Exercise

Identification Exercise #1

Classify the following behaviors:

- A Respondent shows up at “basically every” school event that the Complainant attends. The Respondent does not approach the Complainant, but the Complainant often observes the Respondent staring at them.
- An RA reported that a building resident always stays for a long time after events and tries to talk to the RA after everyone else has left. The RA cannot leave the event and lock up until all residents have departed and it makes the RA uncomfortable to be alone with the resident.

The Continuum



Identification Exercise #2

Classify the following behavior:

Two students met at new student orientation. After hanging out for a few months, the Respondent tried to kiss the Complainant and told the Complainant they had developed romantic feelings. However, the Complainant does not have similar feelings for the Respondent. The Respondent continues texting the Complainant and visiting the Complainant's room. The Complainant does not respond or engage.

Identification Exercise #3

Classify the following behavior:

An employee Complainant reported that another employee often comes by the Complainant's office to chat even though the Respondent's office is in another building. The Respondent has given the Complainant some gifts and often seems to be "coincidentally" walking to their car, which is always near the Complainant's, every day when they leave work at the end of the day. The Complainant has seen a car that looks like the Respondent's car behind them on their commutes and is certain that the Respondent followed them to the grocery store and to dinner with friends last weekend.

Unique Challenges of Cyberstalking

Cyberstalking

- Use of communication **technology**, or any other emerging technologies, to engage in a **course of conduct** directed at a specific person that would cause a reasonable person to –
 - Fear for that person’s safety or the safety of others, or
 - Suffer substantial emotional distress
- Most cyberstalking behaviors are **not** protected by the First Amendment
- If cyberstalking is sex- or gender-based, it may implicate **Title IX**



Forms of Cyberstalking

Passive

- Obtaining publicly available information without detection

Invasive

- Deliberate acts intended to infringe upon or violate privacy

Duplicitious

- Deceptive acts used to gain access to information without detection

Technological Abuse

- 2022 VAWA reauthorization added the term “**technological abuse**”
 - Has substantial overlap with **Stalking**
- 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...another person
- That occurs using **any form** of technology

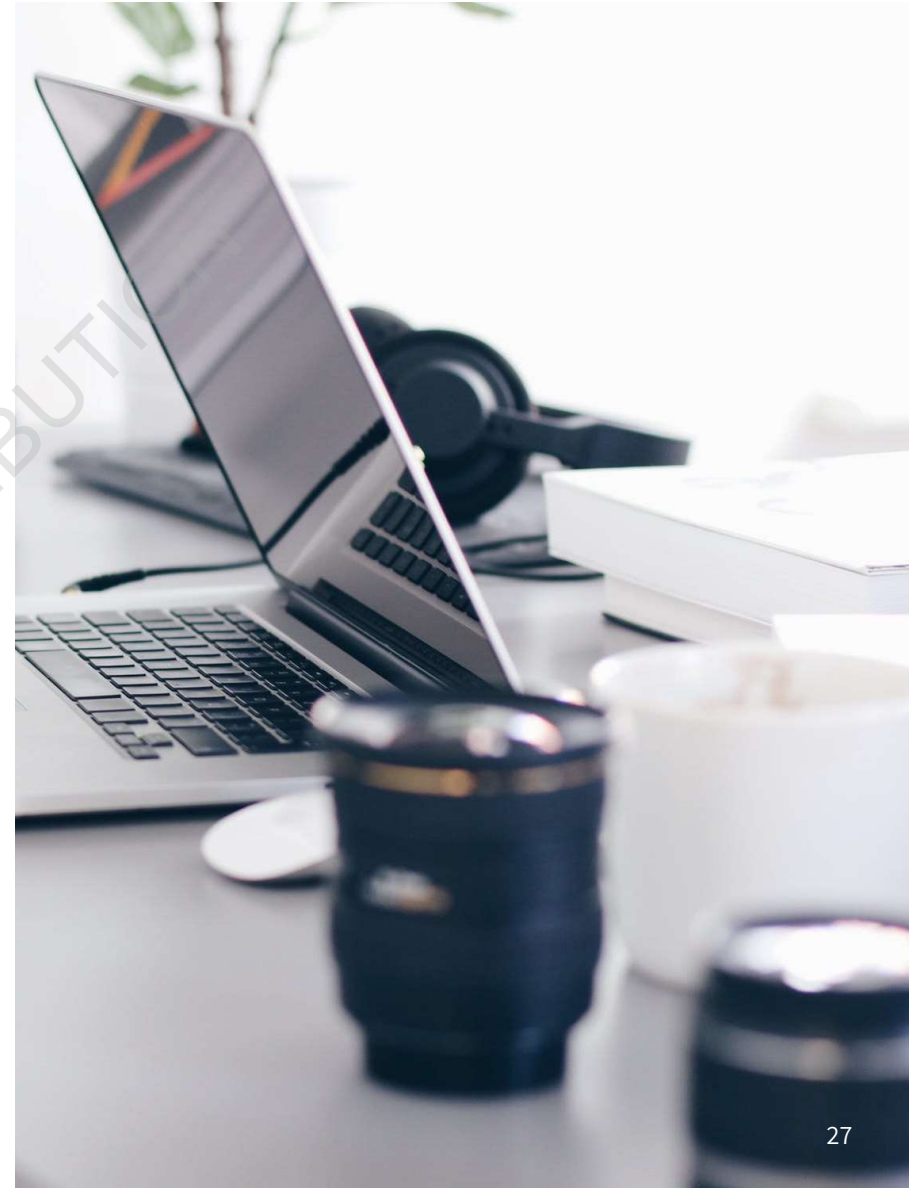


Common Cyber Tools and Tactics

- Artificial Intelligence (AI) generated images and messaging
- Email
- Geo-positioning data or GPS via phones or cars
- Messaging apps
- Ransomware, viruses, spyware, and keystroke loggers
- Releasing personal data
- Sextortion
- Smart Home devices
- Surveillance via mobile devices
- Social media sites
- Social networking platforms
- Text messages

Detection Techniques

- Tips to share with students and employees:
 - Antivirus software
 - “Stalker app” detection software
 - Firewalls
 - Virtual Private Networks (VPN)
 - Privacy Guards
 - Data Encryption
 - Data Recovery Systems



Safety Planning

- Tips to share with students and employees:
 - Change passwords frequently
 - Change security questions and answers
 - Disable location tracking/sharing
 - Enable fraud alert with credit bureaus
 - Establish double authentication
 - Sweep devices
 - Use apps like TrapCall to unmask anonymous call information
 - Avoid responding to social media posts that ask questions about common security question topics (e.g., What was the make and model of your first car?)

Unique Challenges

- Perpetrator anonymity
- Conduct outside of school/institutional control or jurisdiction, including mixed jurisdictional situations
- Long-term nature of stalking and ability of Complainant to access support services throughout
- Complainant retention
- Safety in online environments



Stalking Indicators and Impacts

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Stalking Indicators

- Showing up wherever the Complainant goes
 - Location sharing on social media platforms
- Interacting with numerous social media posts
 - From years or months prior
 - Moments after posting
- Engaging with Complainant's friends' posts whom the Respondent does not know
- Knowing private information



Neurodivergence

- Common behaviors for neurodivergent individuals are often labeled “stalking”
 - Other descriptors along the continuum may be more appropriate
 - Impacts response to behaviors
- Collaborate with specialists as needed
 - Disability services professionals
 - Special education professionals
 - Counseling and/or school counseling
- For K-12, Manifestation Determinations impact sanctions/remedies, not whether a policy violation occurred

Stalking and Intimate Partner Violence

- Stalking sometimes co-occurs with intimate partner violence (IPV)
 - During or after the end of a relationship
- Stalking is often accompanied by other forms of violence
 - Coercive control
 - Verbal degradation
 - Physical or sexual assault
 - Threats of harm
- Stalking increases the risk of IPV and homicide

Managing Stalking Complaints

Stop, Prevent, and Remedy

An allegation of sex-based stalking triggers a school/institution's responsibility to:

- **Stop** the harassment
- **Prevent** its recurrence
- **Remedy** the effects



Stalking Complaint Intake

- Gather information from Complainant
 - Invite the Complainant to bring a support person or Advisor
 - For K-12, this will involve parents/guardians
- Offer available supportive measures, including community-based options
- Engage in safety planning measures
- Provide opportunity to make a complaint

Stalking Complaint Intake

- Assist the Complainant in reporting the conduct to law enforcement (if desired, for higher education)
 - K-12 may have mandated reporting responsibilities to law enforcement or protective services
 - Higher education TIXC may have additional reporting responsibilities for minors
- Advise the Complainant of options to pursue a protective order
- Evaluate the need for a violence risk assessment (VRA)
- Consider behavioral intervention team (BIT) referral

Intake Strategy

- Complainants may minimize incidents and their impact
- Gather information about the specific conduct to help screen against the policy definition, including:
 - Behavior duration, intensity, and frequency
 - Changes the Complainant has made to their daily life in response to behavior
- Certain circumstances may require the additional support of community advocates, law enforcement, and legal professionals

Supportive Measures

Non-disciplinary, non-punitive, individualized measures offered as appropriate and reasonably available to:

- Restore or preserve **access**
 - Without **unreasonably** burdening either party,
 - To protect the **safety** of the parties, the environment, or
 - To **deter** sex-based harassment
 - Provide support during resolution process
 - Without fee or charge



Examples of Supportive Measures

- Classroom, housing, or work arrangement adjustments
- Emergency notification
- Housing relocation or on-campus housing option for an off-campus student
- Safety escorts
- Safety planning
- No Contact Orders
- Increased security and monitoring
- Referral to counseling or Employee Assistance Program
- Trespass or “be on the lookout” (BOLO) orders

Safety Planning Considerations

TIXC should engage in safety planning that considers:

- Level of access to the Complainant
- Full history of the stalking behaviors and context of the relationship
- Available support person(s) and immediate school/institutional resources
- Community-based resources
- Law enforcement or civil support options



Safety Planning Action Examples

General

- Alter schedules and routes
- Cease communication with Respondent
- Inform support system
- Notify school resource officer (SRO), campus security, and/or police
- Secure an emergency protective order
- Seek victim services assistance

Workplace/School Specific

- Inform residence life, coaches, teachers, supervisor, or other key administrators
- Provide photo to campus security/police or school resource officer (SRO)
- Remove FERPA directory information
- Request supportive measures
- Use safety escorts while on school property
- Change workflow protocols

Violence Risk Assessment

Stalking allegation complaints with one or more of the following risk factors should be referred for a VRA:

- Incident(s) included violence resulting in injuries or significant safety risks
- Respondent has made threats to kill the individual
- Respondent has made threats of future violence that could result in harm to the Complainant or to those close to the Complainant, including animals
- Incident(s) involves the use of a lethal weapon

ATIXA Title IX VRA Referral Protocol

Stalking (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 Respondent has engaged in spoofing, doxing, or other incursion to harm the Complainant |
| <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-imminent threat; refer to BIT/Care Team
- **4+ total points** = Potential imminent threat; initiate VRA as part of emergency removal process

K-12 Parent/Guardian Involvement

Parents/Guardians are critical stakeholders

- May make a report or initiate a complaint
- Must receive notice prior to any interview
- Permitted to:
 - Be present for all interviews and meetings
 - Review all education records related to their student (under FERPA)
- Be mindful of estranged parent relationships



Law Enforcement Involvement

- School/Institution may initiate or assist with a report to law enforcement
- Law enforcement may be included in a safety plan
- Schools/Institutions and law enforcement may start investigations at the same time and may share information at various stages, but they should remain separate
 - Do not defer to the law enforcement investigation
 - Conduct a prompt, independent investigation



Investigating Stalking Behaviors

Investigation Strategy

“Course of conduct”

- Incident log or timeline
 - Detailed information for each alleged stalking incident or related behavior
 - Texts, voicemails, phone calls, photos, videos, social media messages
 - Timestamps and other data or corroborative testimony will help **verification and authentication** efforts
 - Evidence on district/institutional networks or systems
 - Email, video, building access, computer lab access
 - Law enforcement reports

Investigation Strategy

Inquire about:

- Any friends, family members, or intimate partners experiencing stalking from the Respondent
- All related unwelcome behavior
 - Stalking may begin with proclamations of interest or love
 - Distinguish between stalking and other continuum behaviors



Activity: Identifying Response Options

Taylor and Jessie

- At the end of class, Taylor asks their biology lab instructor if he could walk Taylor to their car in the parking lot because Taylor is being followed by another student, Jessie
- Concerned by this, the instructor notifies campus security, who arrive on scene to interview Taylor
- Taylor reports the following to campus security:
 - Taylor has seen Jessie nearly “every single day all over campus”
 - Jessie is “always staring” at Taylor
 - Every Tuesday and Thursday for the past three weeks, while Taylor is eating lunch in the cafeteria, Jessie moves to a closer table when Jessie sees Taylor

Taylor and Jessie

- Jessie will also repeatedly stand up and walk past the table where Taylor is sitting and stare
- This past Tuesday, Jessie walked by the table at least six separate times
- Taylor tried to ignore Jessie's behavior at first, but then Taylor noticed that Jessie is now waiting for Taylor outside of biology lab when it ends
- Jessie sits at the bench across from the lab and "just stares" as Taylor exits the room and walks down the hallway
- Jessie is "freaking [Taylor] out" and they are scared to be on campus

Taylor and Jessie

- Campus security asked Taylor to explain how they met Jessie and the history of their interactions, to which Taylor responded:
 - Taylor’s first interaction with Jessie was over Facebook
 - They were both in a Facebook group for students who are trying to buy used books
 - Every time Taylor posts, Jessie comments on the post about how “good looking” Taylor is, or “how nice [Taylor] seems”
 - Taylor has never responded to Jessie or communicated with Jessie in person
 - Taylor is “pretty sure” Jessie has followed them in the parking garage and library

Taylor and Jessie

- Taylor pointed out Jessie in the hallway, and campus security approached Jessie
- When the security spoke with Jessie, Jessie shared:
 - Jessie has seen Taylor around and thinks Taylor is attractive and nice
 - Jessie has severe Autism Spectrum Disorder, so people often think Jessie is weird
 - Taylor is in the biology lab just before Jessie's biology lab, which is held in the same room
 - Jessie was “just trying to work up the courage to say ‘hi’ to Taylor so they could be friends”

Taylor and Jessie

- Jessie apologized repeatedly to the security staff for “scaring” people
- Jessie became upset during the interview and said that they would be more comfortable talking later when their mother could be present
- Campus security agreed to schedule a later time to discuss the situation and walked Jessie to the Disability Support Services office so Jessie could speak with the Coordinator, with whom Jessie is very close
- Campus security submitted a copy of their report to the Title IX office and noted that they have not yet been able to schedule another interview with Jessie



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Questions?

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