

ATIXA Guide to Racial Equity in Title IX Proceedings

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Guide Introduction

Race is always important, even when sex discrimination is the main focus of a complaint. To effectively implement a Title IX resolution process, Title IX administrators must be cognizant of the intersectionality of race and sex. We must be able to identify and be willing to address the systemic barriers that exist for BIPOC¹ individuals when navigating the Title IX process.

We know that BIPOC individuals experience incidents of sexual harassment, but have you ever wondered why BIPOC individuals tend to underreport to Title IX offices? Are you concerned that there may be an overrepresentation of BIPOC respondents engaged in your process? Do you have little to no participation of BIPOC individuals in your education and prevention events? What systems can you put into place to ensure BIPOC individuals feel comfortable accessing your services and feel assured that they will be treated equitably while doing so? How do you effectively develop rapport and trust with BIPOC parties?



Gather Data to Support Your Work

Collecting and analyzing quantitative and qualitative data regarding your Title IX program will provide a baseline assessment of your current program and identify areas needing additional attention. This is more than just conducting a periodic climate survey. Rather, your data collection efforts should be specifically targeted to identify any racial inequities and barriers that may exist within your Title IX program for BIPOC individuals.

Following are some areas you should consider assessing for potential racial inequities:

REPORTING AND RESPONSE

How many complaints do you receive from BIPOC individuals?

Is there evidence to suggest that reports from BIPOC complainants tend to be perceived as false or are downplayed in severity?

Is there a racial disparity/disproportion in the number of complaints that are dismissed?

Are there racial disparities in the amount of time taken to resolve complaints?

SUPPORTIVE MEASURES

Is there a disparity in the types, number, and/or duration of supportive measures offered and provided?

Is it harder for BIPOC complainants to receive approval for requested supportive measures?

Do BIPOC parties tend to bear the burden of ensuring supportive measures are implemented as prescribed by the Title IX office?

Are supportive measures more restrictive for BIPOC respondents?

BEHAVIORAL INTERVENTION AND THREAT ASSESSMENT REFERRALS

Great care needs to be taken to ensure that BIPOC individuals, particularly Black males, are not misperceived as posing a threat. This can lead to BIPOC parties being referred to the Behavioral Intervention Team (BIT) in greater numbers and/or more often labeled as a "threat" and subsequently removed from education programs or activities.

Is there a racial disparity in the number of individuals who are referred to your BIT?

Is there a racial disparity in the number of individuals deemed to pose a threat?

- Would similar outcomes or assessments have been made if the individuals being assessed were not BIPOC?

Are your procedures for referral to your BIT uniformly applied?

Are your evaluation protocols and tools designed to take into consideration factors unique to BIPOC individuals?

Do you have BIPOC individuals serving on your BIT?



EMERGENCY REMOVALS

The use of emergency removals is connected to your BIT referrals because an institution must conduct an individualized violence risk assessment (VRA) to determine whether a respondent poses a threat prior to taking steps to remove that individual from any or all education programs or activities.

Is there a racial disparity in the number and duration of emergency removals implemented?

Are you equitably seeking an emergency removal under similar circumstances?

- For example, are you only seeking an emergency removal for Black students accused of a violent sexual assault, but not when similar conduct occurs by a student of a different race?



ADVISORS

All parties have the right to an advisor of their choice to assist them throughout Title IX and VAWA-compliant



SANCTIONS AND REMEDIES

Sanctioning and remedy considerations are case-specific and individualized based upon the severity of the



Active Engagement with BIPOC Community

Opportunities should also be provided to gather qualitative data from your BIPOC students and employees so that you can hear real life examples directly from those impacted, instead of perhaps relying on your own perception of the racial disparities and barriers that may exist and how best to address them. This can be done through focus groups, listening sessions, town hall meetings, etc. In doing so, it will be important to ensure these sessions are facilitated by a trusted individual who is skilled at navigating the discussion of sensitive topics.

Your engagement with the BIPOC community should not be limited to data collection. Rather, you must have a commitment to active, personal engagement with the BIPOC community at your institution which will provide another level of insight into the cultural mores and experiences of BIPOC individuals. Do you engage in targeted outreach to BIPOC populations? Consider partnering with student organizations/affinity groups on campus to sponsor your Title IX activities. Carve out some time from your Title IX work to attend activities sponsored by BIPOC organizations at your institution. Show up and be present to let BIPOC individuals know you are an ally. As



Those looking to enhance training on racial, cultural, ethnic, and other biases should not forget the training mandate under the 2020 Title IX regulations. All members of the Title IX team (Title IX coordinators, investigators, decision-makers, and informal resolution facilitators)³ must be trained on certain topics prior to serving a role in the Title IX resolution process, including the mandate to serve impartially and to avoid bias and conflicts of interest. While this may nominally include sex/gender bias, it is fairly read to include avoiding bias for or against an individual based upon their race or any other protected characteristic.



The Best is Yet to Come

After the data has been collected and you have engaged in personal development, you may discover areas of disparity and systemic barriers for BIPOC individuals. Don't be alarmed. Just forge ahead with your Title IX team, in partnership with the BIPOC community at your institution, to do the work necessary to eliminate those disparities and systemic barriers to equity. Especially if your Title IX office is not staffed with diverse personnel, your ability to outreach to and establish allyship with the Equal Employment Opportunity office, the Affirmative Action program, multicultural affairs organizations, and similar groups can make all the difference in creating trust and a perception of the fact that your office is receptive, safe, and equitable. As you undertake these efforts, assess your progress, fine tune your strategy, and continue to make demonstrable incremental progress. Not only will your Title IX efforts be better off, but you will be too.

This guide is included as part of the ATIXA Title IX Toolkit (TIXKit), a powerful repository of documents and policy recommendation templates used by practitioners in the field. [Click here](#) to learn more about TIXKit and other ATIXA resources.

