

Trauma Informed Practice: Legal Compliance

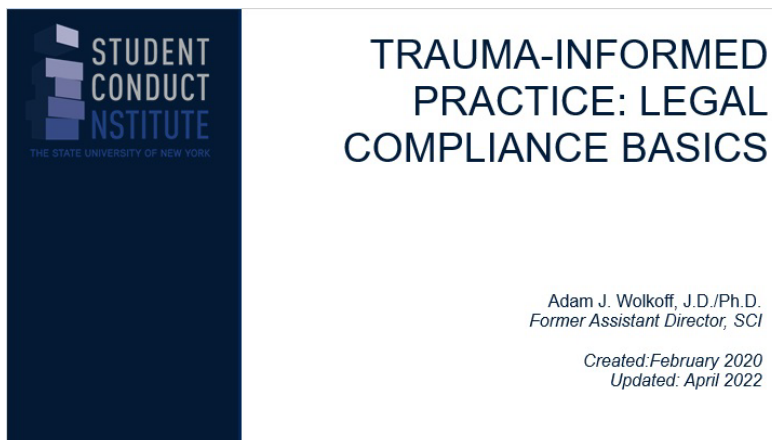
1. Introduction

1.1 SCI Welcome & legal disclaimer



Notes:

1.2 Title Slide



Notes:

1.3 Introduction

INTRODUCTION

Learning Objectives for this course:

1. Review the legal framework surrounding trauma-informed practice in campus settings
2. Learn where courts have identified potential Title IX violations in its use
3. Analyze the proper use of trauma-informed practice when making credibility determinations

Notes:

1.4 Role in process

ROLE IN INVESTIGATIONS

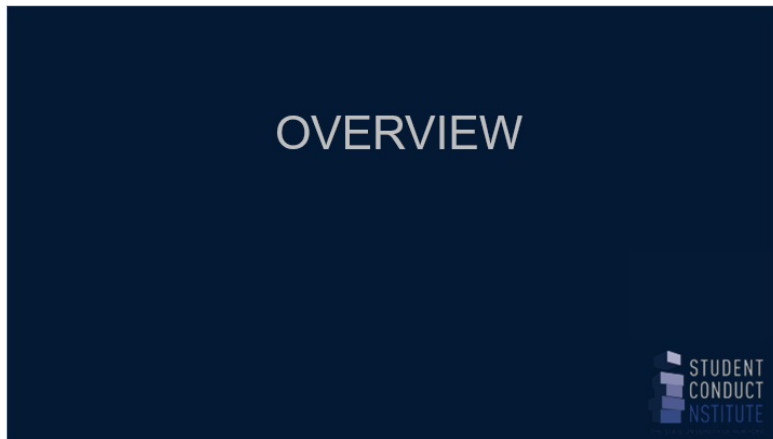
Evaluating witness testimony

- Fact-finders review evidence to determine if it is authentic, relevant, and credible
- Credibility analysis is multi-factored
- Trauma-informed practice helps us understand potential gaps or conflicts in testimony
- It does not require fact-finders to ignore major inconsistencies in testimony

Notes:

2. Trauma-Informed Practice Basics

2.1 Overview



Notes:

Joe to review

2.2 TIX and trauma-informed practice basics



Notes:

Joe to review

2.3 Legal framework

LEGAL FRAMEWORK

No federal law, regulation, or guidance requires (or prohibits) trauma-informed practice

Examples of State training requirements

- New York Education Law, Article 129-B
- Connecticut Gen. Stat. § 10a-55p
- Illinois HB 821 (2015)
- Oregon HB 3415 (2019)

2.4 TIX considerations

TITLE IX CONSIDERATIONS

Title IX lawsuits depend on discrimination on the basis of sex

Trauma-informed practice and Title IX

- Respondent's theory: applying trauma-informed practice amounts to discrimination on the basis of sex
- College's response: by applying trauma-informed practice even-handedly, there is no gender discrimination in its use

Notes:

2.5 Gender neutrality

“GENDER NEUTRALITY”

Courts uphold trauma-informed practices applied in a “gender neutral” manner

- *Rossley v. Drake Univ.*, 342 F. Supp. 3d 904, 928 (S.D. Iowa 2018), aff’d, 979 F.3d 1184 (8th Cir. 2020).
- *Doe v. Colgate Univ.*, 760 F. App’x 22, 32 (2d Cir. 2019).
- *Doe v. Univ. of Denver*, No. 17-CV-01962-PAB-KMT, 2019 WL 3943858, at *9 (D. Colo. Aug. 20, 2019) (Title IX)
- *Messeri v. Univ. of Colo.*, Boulder, No. 18-CV-2658-WJM-SKC, 2019 WL 4597875, at *15, 18 (D. Colo. Sept. 23, 2019) (due process)

3. Credibility Determinations

3.1 Credibility determinations



Notes:

Joe to review

3.2 Credibility cases

CREDIBILITY CASES

Possible Title IX violation where trauma-informed practice leads fact-finder or investigator:

1. to assume female reporting individual was being truthful,
 2. and male respondent should not be believed,
 3. because of their gender identities
- *Doe v. The Trustees of the Univ. of Pennsylvania*, 270 F. Supp. 3d 799, 817 (E.D. Pa. 2017)
 - *Doe v. Univ. of Mississippi*, 361 F. Supp. 3d 597, 610 (S.D. Miss. 2019)

3.3 Credibility cases 2

CREDIBILITY CASES

- *Doe v. Univ. of Oregon*, No. 6:17-CV-01103-AA, 2018 WL 1474531, at *15 (D. Or. Mar. 26, 2018)
- *Doe v. Syracuse Univ.*, No. 5:18-CV-377, 2019 WL 2021026, at *7 (N.D.N.Y. May 8, 2019)

4. Conclusion

4.1 investigative approach

INVESTIGATIVE APPROACH

Trauma-informed interactions with reporting individual

- Hostility toward reporting individual's report could be evidence of "deliberate indifference" in violation of Title IX
- But no Title IX violation simply because investigator questions the credibility of a reporting individual's statements about the sexual assault.
- *Doherty v. American International Coll.*, No. 17-CV-10161-IT, 2019 WL 1440399, at *8 (D. Mass. Mar. 31, 2019)

Notes:

5. Exit Questions

5.1 Attest

(True/False, 100 points, 1 attempt permitted)



I attest that I watched and completed this course in full.

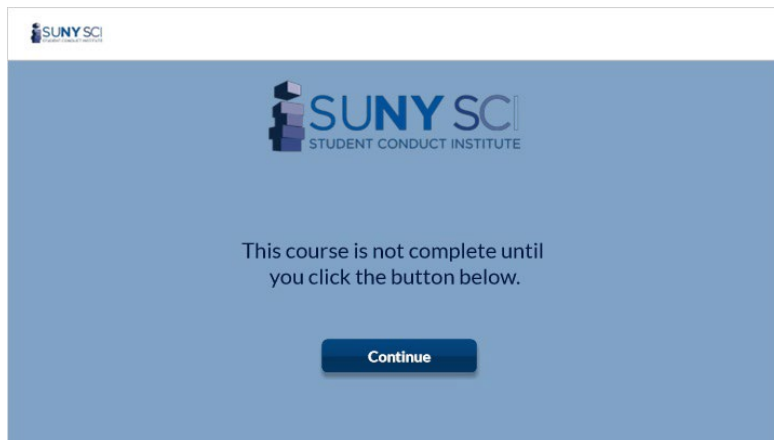
☒ True

Submit

Correct	Choice
X	True

5.2 Results Slide

(Results Slide, 0 points, 1 attempt permitted)



Results for
5.1 Attest

Result slide properties	Passing Score
80%	

Success (Slide Layer)



This course is not complete until
you click the button below.

Continue

Failure (Slide Layer)



This course is not complete until
you click the button below.

Continue

5.3 End Course



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