



**T9
MASTERED**[®]
Training for Title IX Professionals



**Title IX: Gathering Facts on Dating
Violence, Partner Violence and Stalking**

Course Material
September 13, 2023

Presented by T9 Mastered LLC
a venture of Van Dermyden Makus Law Corporation



A T9 Mastered Workshop:

Title IX: Gathering Facts on Dating Violence, Partner Violence and Stalking

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Biographies

Liz DeChellis is a Partner with Van Dermeyden Makus Law Corporation. She is licensed to practice law in the State of California, and is certified as a Senior Professional in Human Resources (SPHR).

Prior to joining Van Dermeyden Makus, Liz was employed at UC Davis where she routinely provided policy and contract interpretation to management and staff, responded to grievances and complaints, acted as the University Advocate for administrative hearings, and negotiated contracts with labor unions. Additionally, she conducted investigations and fact-findings and served as a Hearing Officer in student discipline hearings. Prior to law school, Liz worked in Human Resources for various companies, providing advice and assistance with recruitment, hiring, termination, and performance management.



Liz is also an experienced investigator in Title IX sexual misconduct claims. She has investigated cases involving underage Complainants, multiple Respondents, and allegations involving incapacitation and inability to consent. Liz understands best practices in the Title IX arena, and the challenges facing schools and parties when sexual violence allegations surface.

Liz frequently serves as an Appeal Hearing Officer for Title IX cases. In this role, Liz reviews campus responses to Title IX allegations within the framework of the individual school's appeal process. In her deliberations, she considers whether the administration's response to claims of sexual misconduct were compliant with policies meant to provide a safe campus for students. Liz has overseen cases involving dating violence, drug abuse, sexual assault, and incapacitation. She has experience questioning parties using trauma-informed techniques, making admissibility and relevance decisions, and issuing well-reasoned, thorough decisions.

Additionally, Liz has investigated matters at K-12 Districts, including allegations involving discrimination and compliance. Her investigations have included interviews of administration, classified staff, as well as paraeducators.

Liz graduated from McGeorge School of Law in 2012 and earned an undergraduate degree from UC Davis.

Lexi Zuidema is an Associate Attorney with Van Dermyden Makus Law Corporation. Her practice focuses on discrimination and harassment complaints in both private and public- sector employment contexts and Title IX campus investigations. Lexi also serves as a Hearing Officer in Title IX and student conduct cases.



Trained in Trauma Informed Forensic Interviewing, Lexi is an experienced investigator in Title IX sexual misconduct and harassment claims. She has conducted investigations at the K-12 and university level. Lexi has experience in investigating University faculty and administrators, underage complainants, multiple respondents, and complex issues involving incapacitation and consent.

Prior to joining Van Dermyden Makus, Lexi completed an externship with Chief Justice Tani Cantil-Sakauye at the California Supreme Court. While completing her undergraduate degree, she worked for her school's legal counsel researching requirements and applications of Title VII and Title IX. She also worked as an intern for the Santa Barbara District Attorney's Office and the Kern County District Attorney's Office, aiding in the investigation of numerous sexual violence cases.

Lexi graduated from UC Davis School of Law in 2019 with business law and tax law certificates. She received her Bachelor of Arts from Westmont College in 2016 with a double major in Political Science and Economics & Business.





**Gathering Facts
on
Dating Violence,
Partner Violence,
and Stalking**

Liz DeChellis & Lexi Zuidema
September 13, 2023



Agenda

- **Foundations Review**
- **Introducing the Case**
- **Initial Interview**
- **Managing the Parties, Witnesses, and Scope**
- **Law Enforcement Involvement**
- **Managing Your Wellbeing**






Foundations

Definitions: Dating Violence (Title IX)

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and, where the existence of such a relationship shall be determined by the victim with consideration of the following factors:

- (1) The length of the relationship,
- (2) The type of relationship,
- (3) The frequency of the interaction between the persons involved in the relationship.

— *Clery Act/VAWA*




Definitions: Partner/Domestic Violence (Title IX)

Includes felony or misdemeanor crimes of violence

- committed by a current or former spouse of the victim,
- by a person with whom the victim shares a child in common,
- by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws[.]

— *Clery Act/VAWA*



Definitions: Relationship Violence (non-Title IX)

1. Physical violence toward the Complainant or a person who has a close relationship with the Complainant [...] or
2. Intentional or reckless physical or non-physical conduct toward the Complainant or someone who has a close relationship with the Complainant [...] that would make a reasonable person in the Complainant's position fear physical violence toward themselves or toward the person with whom they have the close relationship. [...]
— *University of California*



Definitions: Relationship Violence (more clarification)

- Physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.
- Patterns of abusive behavior may consist of or include non-physical tactics (such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance)[.]



Definitions: Stalking (Title IX)

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or to suffer substantial emotional distress.

Course of conduct means two or more acts, including, but not limited to, acts which the stalker 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.

— *Clery Act/VAWA*



Definitions: Stalking (non-Title IX)

- Repeated conduct directed at a Complainant
- Of a sexual, romantic, or other sex-based nature or motivation,
- That would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress

— *University of California*



What are your biggest challenges in these cases?



Challenges



Mental Health

- These cases frequently implicate mental health issues
- We are not psychiatrists/psychologists
- Mental health conditions are more likely to make someone vulnerable rather than make them aggressive



Evidence

- These cases can involve relationships that span longer timeframes and therefore include a lot of information to analyze
- Framing and selective production of evidence can paint a very different picture from reality
- What seems obviously connected to a Complainant may be hard to verify or connect to the Respondent
- The case material is often heavy



Party Dynamics

- Toxic relationships vs. abusive relationships
- Abusers may try to use campus systems against their victims to further stalk/harass them
- Violence often happens in cycles, both Parties may have experienced abuse



Witness Dynamics

- Friend groups
- Family involvement
- Ostracization
- Fear of loss of friendships
- Gossip/rumor mill



Challenging Preconceived Notions

- Violence and stalking affects people differently and they may act counterintuitively.
 - Why didn't they leave?
 - Why didn't they ask for help?
 - Why did they tell their friends they were fine?
 - Why didn't they seek medical attention?
 - Why did they invite them back?
 - Why did they respond to their messages?
- Retrospective and outside views are very different from "in the moment" perspectives.



Cross Complaints

- What are they?
- Consolidate or keep separate?
- Referring to the parties in the report(s)
- Retaliation claims





Introducing the Case

The Parties

- Complainant: Nicky
 - 3rd year Art History major
- Respondent: Lucas
 - 3rd year Mathematics major
- Relationship Stats
 - Met in May 2022
 - Broke up in April 2023





Conducting the Initial Complainant Interview

Asking Good Questions

- Complainants frequently overlook or minimize abusive, coercive, and violent conduct
 - Threats of self-harm
 - Preventing them from leaving a residence
 - Throwing objects not directly at them
 - Telling them about a weapon
 - Talking about engaging in violence against them



Asking Good Questions

- The first instance of the conduct, then follow up about whether Respondent did anything similar in the past.
- Did the tactics of stalking or type of violence change over time?
- How the conduct has affected the way Complainant lives. Have their daily/weekly habits changed?
- How each incident made them feel. What about the conduct made them feel afraid? What were they afraid of?
- What contact mediums did the Respondent use. When was their last contact with the Respondent?
- How they communicated they did not want further contact with the Respondent. Do they believe the Respondent knows that they do not want any more communication? Why do they believe that?



Asking Good Questions

- Ask about a range of evidentiary sources
 - Text message history with Respondent and witnesses
 - Social media exchanges/activity
 - Emails
 - Notes/Journals
 - Phone call logs
 - Receipts
 - Google location data
 - Photos



Asking Good Questions

- Probing into counterintuitive conduct
 - Can you walk me through your decision to go back into the residence?
 - Can you help me understand your thought process when you reinitiated contact with Respondent?
 - What led you to ultimately report Respondent's conduct?
- **Avoiding "Why didn't you do this?"**



Conducting Witness and Respondent Interviews



Witness Interview Challenges

- Requests for more information about the case
- Fears of the impact to them and their social life
- Volume of information
- Witness biases
- Witnesses sharing information outside the interview space
- Communications back to one or more of the parties



The Witness: Quinn

- Identified by Complainant as someone who knows “everything”
- Is friends with both Complainant and Respondent
- Complainant asserted she told Quinn about the unwanted sexual activity “right away” after it occurred



Respondent Interview Challenges

- Similar to Complainant challenges:
 - Length of relationship
 - Volume of incidents being investigated
 - Difficulty obtaining relevant details
 - Friend and family involvement
 - Length of time since some incidents
- Allegations against Complainant
- Process questions about cross-complaints, confidentiality, and retaliation



The Respondent: Lucas

- 3rd year Mathematics major
- Relationship Stats
 - Met in May 2022
 - Broke up in April 2023
- Lucas has emailed you several times, eager to tell you “the truth, as well as how Complainant hurt and abused” him



Scope Challenges

- Level of detail in the scope
 - Pros
 - Cons
- Amended scope(s)
 - Importance of accuracy v. impact to the parties
 - Date confusion
- When do you stop scope expansion?
 - Let Policy be your guide
 - Remember the big picture



A Word About Law Enforcement



Law Enforcement Involvement

- Staying in-the-know about criminal cases
 - Ask Complainant about law enforcement involvement during your first interview
 - Remind Complainant to tell you if they decide to report any incidents to the police
 - Check in with Complainant, Respondent, and the school
- Communicate with law enforcement (even if it is one-sided!)
 - Introduce yourself
 - Periodic check-ins
- Try to get a copy of the police report and document your attempts



Law Enforcement Involvement

- Different Avenues to Obtain Information
 - Copy of the report
 - Review of the report
 - Interview with lead investigator
 - Discussion with the assigned District Attorney
- How to Handle Information Obtained
 - How do you use it in your investigation?
- Managing Medical Records



Managing Your Wellbeing



Heavy Content

- Multiple alleged incidents
- Extensive message histories
- Graphic imagery
- Different kinds of abuse
 - Animal abuse
 - Child abuse
 - Use of children as bartering tokens
 - Threats of self-harm
 - Destruction of property
 - Physical injury
 - Sexual misconduct
 - Social humiliation



Managing the Impact

- Important to check in with yourself
- Asking for help or a break is not weakness
- Drawing boundaries on content is healthy
- Take care of your physical self (eat, sleep, exercise)
- Make a plan for burnout and fatigue, don't wait for it to happen



How do you manage your wellbeing?



Final Thoughts

- These cases are challenging to **everyone**
- You are only responsible for your investigation and your own actions
- Resources are available on campus and throughout the community to assist the parties
- The case will eventually, inevitably, draw to a close
- There are communities of Title IX professionals – utilize your network!

