Achieving Clarity & Protecting Privacy

When survivors seek services on campus

Objectives Today

• Articulate the concepts of “privilege”, “privacy” & “confidentiality”

• Instigate local conversations to define the levels of privacy that will be enforceable in campus-based services.

• Understand importance of informing survivors about privacy choices, campus-based exceptions and alternative services options.
Privacy & Safety Are Linked

Privacy Concepts

Confidentiality
You have a duty to protect my information.

Privacy

Privilege
Confidentiality by Law

VAWA/FVPSA Funding Rule -

• Victim Service Provider Grantees shall NOT disclose, reveal or release any:
  • personally identifying information (PII)
  • individual information [for VAWA only]
  • collected in connection with program services
    • requested,
    • utilized or
    • denied

Confidentiality by Professional Code

• National Association of Social Workers Code of Ethics
• Attorney Rules of Professional Conduct
Confidentiality by Policy

• School policy about disclosure & access
• Office policy about disclosure & access

No Disclosure = Protecting Choice

• Advocate protects
  • Survivor’s right
    • to decide who knows his/her information,
    • Including fact that Advocate contacted.

• Therefore:
  • Advocate doesn’t decide to disclose
    • Survivor can instruct Advocate to disclose
Privacy Protections

Privacy
Confidentiality
Privilege

They can't make you share my information.

Government Extends Privilege

• Found in statute or court decision
• Extended to protect an important social value
• Means neither professional nor survivor can be forced to share
  • Except when government decides an exception
Government Decides Disclosure

• If a statute OR a court order requires disclosure
  • Only release info required by statute/order

What about “Mandatory Reporting”?

• If state law specifically requires your profession to make a disclosure
  • Only disclose minimum information required

• If university rules require disclosure of survivor information outside victim services
  • That is not a statutory mandate

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Title IX & VAWA Intersection

- Title IX allows campuses to provide:
  - Confidential services
  - To victims of sexual violence & harassment

full text of April 2014 FAQ's on Title IX and Sexual Violence

Clery Protects Identifying Information

- Clery does NOT require personnel that are not Campus Security Authorities to report criminal activity.
- “Campus Security Authorities” are:
  - Campus Police
  - Non-police responsible for security
  - Persons designated to take reports of crimes
  - Persons with significant responsibility for student & campus activities
Clery Protects Identifying Information

- Clery crime statistic reporting may not include victim identifying information
- 34 CFR 668.46(c)(5)

Enforce a Confidentiality Circle

**Inside the Circle**
Survivor chooses to share information with staff of specific service office

**Outsiders**
- Other Departments
- Title IX Coordinator
- Police & CSA’s
- People supporting survivor
SWOT Analysis

• **Strengths** – support for your confidentiality circle?
• **Weaknesses** – threats to your confidentiality circle?
• **Opportunities** to improve survivor privacy?
• **Threats** to protection of survivor privacy?

Clarity in School Communities

• What conversations need to be had locally to improve survivor control over information?
• What are the current local barriers to improving survivor control over information?
Protecting Survivor Choice

• **Survivor decides**
  • who knows
    • personal information.

• Confidential Provider *protects*
  • Survivor’s right
    • to decide who knows personal information.

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Questions? More Assistance?

• Complete Request for Follow-Up Technical Assistance

• Ask questions later:
  • safetynet@nnedv.org
  • alicia@confidentialityinstitute.org

• Review resources in Technology & Confidentiality Toolkit:
  • tools.nnedv.org

Thank you!