



GICA Compliance Collaborative

2020 In-Person and Webinar Training

Title IX – Investigator Training – Parts I, II, and III

(3 Hour In-Person, Webinar, and Videotaped – August 2020)

AGENDA

Title IX Investigator Training – Part I

Definitions

- Sexual Harassment
- Education Program or Activity
 - Off-Campus Student Organizations
- Formal Complaint
- Complainant
- Respondent

Jurisdiction

- Triggering Event
- Actual Knowledge
- Official with Authority
- Mandatory Reporter/Responsible Employee
- No Formal Complaint
 - Filing by Title IX Coordinator
 - Unwilling Complainant
- Unknown Respondent

Dismissal of Complaints

- Mandatory Dismissal
- Discretionary Dismissal
- Non-Title IX Proceedings

Standard of Evidence

- Preponderance of Evidence
- Clear and Convincing
- Same Standards

Emergency Removal

- Purpose
 - Individualized assessment
- Administrative Leave

Supportive Measures

- Definition

- Offered to Complainant and Respondent; offered to student and employee

- Restore/Preserve Equal Access

Training Materials Publication Requirements Overview

- Publication Requirement

- Up-to-date Training

Title IX Investigator Training – Part II

Informal Resolution

- Definition

- Not Permitted Use – condition of employment or enrollment

- Not Permitted Use – Employee sexually harasses student

Investigative Process

- No Conflict of Interest or Bias

- Reasonably Prompt Time Frames

- Written Notice of Allegations

- Rights of Complainant and Respondent

- No Gag Order

- Inspect and Review Evidence

- Preliminary Report

 - Communication with Advisor, if any

- Investigative Report

 - Communication with Advisor, if any

Role of Advisor

- Advisor of Choice

- Restrictions

- Rules of Decorum

Title IX Investigator Training – Part III

Live Hearing

- Must Have

- Options – Informal Resolution

- Decision-Maker

 - Definition

- Parties Physically Present

- Recording

- Questions of Parties and Witnesses by Advisor

 - Cross-Examination

 - Must Submit

 - Relevant Questions

 - Determination of Relevancy

 - Rape Shield Protection

 - Hearsay

- Medical Records Exception
- Privilege Exception
- Written Determination
- Content
- Remedies
- Appeal
 - Both Parties Can Appeal
 - Grounds for Appeal
 - Additional Bases for Appeal
 - Requirements for Appeal

Resources Provided

OCR and Title IX

https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

Joint Guidance on Title IX -

<https://system.suny.edu/sci/tix2020/>

Presenter: Judy Spain, J.D., CCEP

Judy currently serves as the GICA Compliance Program Consultant. She is a Professor Emeritus, Eastern Kentucky University, an attorney licensed in Kentucky, Ohio, New York, and Pennsylvania, and is a Certified Compliance and Ethics Professional. She served as General Counsel and Chief Ethics and Compliance Officer at Eastern Kentucky University and Manhattanville College, where she developed and implemented compliance programs. She has served in multiple Title IX roles and has lectured extensively in this area. Judy is the author of the first book on higher education compliance, *“Higher Education Compliance: Blueprint for Success”*. Judy is also the author of *“Compliance Risk Assessments: An Introduction”* published by the Society for Corporate Compliance and Ethics.